

_____ **MINUTES OF THE**
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
June 25, 2003

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order on June 25, 2003, at approximately 4:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum, as follows:

Members Present:

Mayor Larry A. Delgado
Councilor Carol Robertson Lopez, Mayor *Pro Tem*
Councilor Patti J. Bushee
Councilor Miguel M. Chavez
Councilor David Coss
Councilor Karen Heldmeyer
Councilor Matthew Ortiz
Councilor David Pfeffer
Councilor Rebecca Wurzbarger

Members Absent:

None

5. APPROVAL OF AGENDA

Mr. Jim Romero said he would like to postpone Item G(6) for one more meeting and the Council can make a decision at that time. Both the applicant and appellant have asked for one more postponement, and believe they are close to an agreement.

Mayor Delgado asked Mr. Romero to emphasize to both parties that this will be the last postponement for this case, and it will be held at the next meeting regardless of where the parties are in an agreement.

Mayor Delgado asked to add Item 13(a) for consideration of a second amendment to M.A.P. project MAP-5761(900)00. Mayor Delgado distributed copies of the amendment to the Council prior to the meeting.

It was moved by Councilor Lopez, seconded by Councilor Ortiz, that the Agenda be approved as amended to add Item 13(a) and postponing Item 6(G) to

the next Council meeting, and the motion passed by voice vote, with Councilor Lopez, Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger voting for, and none against.

6. APPROVAL OF CONSENT CALENDAR

Councilor Heldmeyer asked if staff was going to pull Item j from the agenda. Mr. Romero said, after the evening agenda, he plans to inform the Mayor and Council on the retiree health program. Councilor Heldmeyer asked if that report was brief enough to pull this item off consent. Mr. Romero said that it is, and Councilor Heldmeyer said she would rather pull the item off consent.

It was moved by Councilor Ortiz , seconded by Councilor Lopez , that the following Consent Calendar, as amended, be approved. The motion carried on the following Roll Call vote:

For: Councilor Lopez, Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger.

Against: None

- a) **Bid No. 03/59/B – Traffic Calming Projects Cycle Two, Phase Two; R.L. Leeder. (Carrie LaCrosse)**
- a) **Request for Approval of Grant Award – ArtWorks Program; Anonymous Donor. (Sabrina Pratt)**
 - 1) **Request for Approval of Budget Increase/Transfer – Grant Fund/Project Fund.**
- a) **Request for Approval of Grant Award – Awards for Excellence in Arts Event; Century Bank.**
 - 1) **Request for Approval of Budget Increase – Grant Fund.**
- a) **Request for Approval of Grant Award – Library Books and Computers; New Mexico State Library. (Susie Sonfield)**
 - 1) **Request for Approval of Budget Increase – Grant Fund**
- a) **Request for Approval of Memorandum of Agreements – Santa Fe Metropolitan Organization (MPO) Grants; New Mexico State Highway and Transportation/Santa Fe Metropolitan Planning Organization. (Robin Elkin)**

- b) **Request for Approval of Procurement Under State Price Agreements – Library Books. (Susie Sonflieth)**
 - 1) **Book Wholesalers, Inc.**
 - 2) **Ingram Library Services**
 - 3) **The Baker & Taylor Co.**

- a) **Request for Approval of Procurement Under State Price Agreement – Tires for City Vehicles. (Robert Rodarte)**
 - 1) **Continental General Tire**
 - 2) **Bridgestone/Firestone**
 - 3) **The Goodyear Tire & Rubber Co.**
 - 4) **Michelin North American**

- a) **Request for Approval of Sole Source Procurement and Professional Services Agreement – Santa Fe Animal Shelter. (Chief Beverly Lennen)**

- a) ***[Removed by Councilor Bushee for discussion]***

- a) ***[Removed by Councilor Heldmeyer for discussion]***

- a) **Request for Approval of Amendment No. 4 to Legal Services – Consulting Services for San Juan-Chama Diversion Project/NEPA; Kirkpatrick & Lockhart, LLP. (Robert Kidd)**

- a) **Request for Approval of Amendment No. 4 to Legal Services Agreement – Mark F. Sheridan, Esq. (Holland and Hart, LLP) (Robert Kidd)**

- a) **Request for Approval of Sole Source Procurement and Amendment No. 2 to Professional Services Agreement – Consulting Services for Various Waste Projects/Issues; Norman Gaume, P.E. (Kyle Harwood)**

- a) **Request for Approval of Amendment No. 5 to Legal Services Agreement – Various Water Issues; Montgomery & Andrews, P.A. (Kyle Harwood)**

- a) ***[Removed by Councilor Wurzbarger for discussion]***

- a) **Request for Approval of Amendment No. 3 to Professional Services Agreement – CVB Advertising Services State Grant; Maverick Advertising & Public Relations, Inc. (Darlene Griego)**

- a) *[Removed by Councilor Wurzbarger for discussion]*
- a) *[Removed by Councilor Bushee for discussion]*
- a) **CONSIDERATION OF RESOLUTION NO. 2003-52. A Resolution Relating to a Request for Approval of Year End Budget Adjustments for FY 2002/2003. (Kathryn Raveling)**
- a) **Request to Publish Notice of Public Hearing for July 30, 2003, City Council Meeting:**
 - 1) **BILL NO. 2003-26: An Ordinance Amending Section 22-6.6 SFCC 1987, Repealing Section 7 of Exhibit A to Chapter 22 SFCC 1987 and Creating a New Section 7 of Exhibit A to Chapter 22 SFCC 1987, and Amending Section 14-9.3(C) SFCC 1987 Regarding Wastewater Utility Expansion Charges. (Councilor Ortiz, Councilor Bushee, Councilor Wurzbarger and Councilor Lopez) (Costy Kassisieh)**
 - a) **CONSIDERATION OF RESOLUTION NO. 2003 – _____. (Councilor Ortiz.)**
A Resolution Repealing Resolution No. 1991-4 Regarding Wastewater Development Fees.
 - 1) **BILL NO. 2003-27: An Ordinance Creating a New Section 11-2.5 SFCC 1987 Regarding the Review of all Fees and Charges Assessed by the City Prior to the Recommendation of the Annual Budget. (Councilor Chavez)**
- u) *[Removed by Councilor Bushee for discussion]*

APPROVAL OF MINUTES

Regular City Council Meeting - May 28, 2003

It was moved by Councilor Lopez, seconded by Councilor Ortiz, that the minutes of the regular City Council meeting of May 28, 2003, be approved as submitted, and the motion passed by voice vote, with Councilor Lopez, Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzbarger voting for, and none against.

Regular City Council Meeting - June 11, 2003

It was moved by Councilor Lopez, seconded by Councilor Ortiz, that the minutes of the regular City Council meeting of June 11, 2003, be approved as submitted, and the motion passed by voice vote, with Councilor Lopez, Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger voting for, and none against.

PRESENTATIONS

Employee of the Month for June 2003 – Tim L’Esperance; Fire Department Mechanic.

Mayor Delgado said Mr. L’Esperance has been with the City for eight years, and completed an EMT basic course on his own initiative. His duties do not include responding to emergency calls or assisting with critically ill patients. A few weeks ago he used his EMT knowledge to assist a victim of an accident and received compliments from Fire and Police personnel who were at the accident.

Mayor Delgado presented Mr. L’Esperance with a Muchas Gracias Certificate, a certificate for lunch for two at La Choza and a check for \$200 from the Employees Benefit Committee.

Introduction of 2003 Law Enforcement Academy Graduates and New Officers. (Chief Beverly Lennen)

Chief Lennen introduced the new Law Enforcement Academy Graduates: Officers Charles Lujan, Robert Marshall, Nicola Butler, Sean Strahan, Fred Bornman and Michael Root (son of retired SF Police Captain Frank Root). Chief Lennen introduced the newly appointed Animal Control Officer, Edward Vigil.

Mayor Delgado welcomed the new officers. He said public safety is very important to this administration and he wants to continue to work to meet the quota of the needed police officers to do that work.

Muchas Gracias – Demonette of the Year – Valerie Gonzales, Santa Fe High School

Mayor Delgado said Miss Gonzales was awarded the 2003 Demonette Athlete of the Year from Santa Fe High School where she was on the track, cross-country and soccer teams. She is also a state championship gymnast, and qualified in regional competitions. She coaches and teaches gymnastics to young children at Zia Gymnastics Academy, graduated from Santa Fe High in 2003, and has an academic scholarship to attend Westminster in Salt Lake City this fall.

Mayor Delgado congratulated Miss Gonzales and said, "You are a credit to our community. Congratulations!" He also congratulated her parents in their support of Miss Gonzales. Mayor Delgado presented Miss Gonzales with a Muchas Gracias Certificate.

Presentation by Shelly Nolde, Santa Fe Fire Department

Officer Nolde presented "Fire in the Santa Fe Municipal Watershed," an update for the Santa Fe City Council, dated June 24, 2003. This update is incorporated herewith to these minutes as Exhibit "1."

Mayor Delgado said Officer Nolde was asked to give a report to the Council on the conditions of the watershed, the forest and green areas around Santa Fe. He said the fire yesterday in the Albuquerque Bosque was thought to be ignited by fireworks. He said, as Mayor, he will be asking Governor Richardson to ban fireworks throughout the State of New Mexico.

Officer Nolde said there was a fire in the watershed on Saturday which was caused by lightening, was in steep terrain and not in the area which has been thinned. The 20 firefighters from the City, County, National Park Service, BIA and other Forest Service officers, with assistance of a helicopter, were able to contain the fire. The fire burned 3½ acres. Forest Service personnel have gone in daily to ensure that the fire remains dormant.

Officer Nolde said, with regard to long term protection in the watershed, there is an ongoing thinning project which has now cleared about 600 acres and billed to the Forest Service. By October, an additional 1,100 acres will be done. The thinning is being done 50/50 by hand and by machine which turns the trees into mulch. Piles were burned last winter and there are plans to burn more in the fall and winter. The City Fire Department is assisting the Forest Service in that effort.

Officer Nolde said the City's brush truck is staffed 7 days a week, 8:00 a.m. to 8:00 p.m., during the fire season, and patrols the watershed and other areas at least twice a day. Banners have been placed on the back of all fire trucks indicating that the wildland fire danger is very high or extreme to continually remind the public about the fire situation.

Officer Nolde said U.S. Forest Service Engine #602, normally in Española, is housed at station headquarters which is a great advantage to the City. This has resulted in cross-pollination of the employees, a lot of learning going back and forth and provides quick response if anything happen in the City. The City also has contracts for security in the watershed to keep trespassers out, and prevents pollution in the watershed as well as fire prevention. The City Council has banned fireworks.

Officer Nolde said the brush truck and Engine #602 are ready to jump on any fires, and is working on the wildland fire operations plan with all of the cooperators. Councilor Lopez will be introducing a resolution later this evening on that plan.

Officer Nolde said the Department will be doing a fire risk assessment in the wildland urban interface. One of the issues affecting the assessment is the bark beetle epidemic which are attacking healthy trees, and even with rain we may lose many of the piñon trees which will affect fire behavior. She met with the Sierra del Norte neighborhood and spoke with people in Wilderness Gate and Ponderosa Ridge to help them to learn about their fire risk and in looking at fire mitigation.

Mayor Delgado asked, with regard to the contract security, if we are asking more from that security in view of the fire danger conditions, will they be adding personnel. This is a huge area to cover. Mr. Romero spoke with Chief Sperling and Gary Martinez. Chief Sperling told him the brush truck is going to the watershed at least twice a day and he feels that we have adequate security. There are outlook posts where they constantly view the watershed for signs of smoke.

Chief Sperling agrees with Mr. Romero. He said the smoke on Saturday's fire was very difficult to see from lower along the reservoirs. He believes there is good visibility and look-outs for smoke and fire possibilities.

Mayor Delgado asked Officer Nolde what kind of response she has had from her meetings with residents in the area. Officer Nolde said people are very interested, although there haven't been any large meetings. This effort is in the early stages. She has been attending the Hyde Park Fire Wise Community meetings, and they have had great success and have offered to attend other meetings to assist other City neighborhoods to organize.

Mayor Delgado commented that the piñon is very thick going east on Old Taos Highway, and the fire danger will be compounded by the bark beetle epidemic.

Councilor Bushee asked about bark beetles in the watershed. Officer Nolde said to date there have been no traces of bark beetle. Most of the watershed is Ponderosa pine and the bark beetles are attacking only the piñon trees. Councilor Bushee commented that some Ponderosas are being hit. Officer Nolde said they are in Los Alamos. The beetles that attack the trees are endemic so there is always a low level of the insects present and they will attack some trees, although there has not yet been an increase which would approach the beginning of an epidemic in the Ponderosas.

Councilor Bushee asked if the mulching is staying on the ground, and if this is a concern. Officer Nolde said the mulch is only about an inch deep and the machinery is light on the land. Councilor Bushee asked how long the mulch is allowed to stay and if

there are native grasses coming up from the mulching. Officer Nolde said she doesn't know. Councilor Bushee asked the proximity of the unthinned areas to the reservoirs. Officer Nolde said the project has been progressing around the reservoir, beginning on the south end. There isn't a current contract on the north side, so access isn't known.

Councilor Bushee asked if there is any way to speed the process. Officer Nolde said there isn't. The current contractor can't invest in more equipment without knowing for sure there would be lots more funds, and said you are looking federal budget cycles, congressional earmarks and those kinds of things.

Councilor Bushee thanked the Fire Department and Officer Nolde for all of their work. She commented that the Governor is already looking at banning fireworks. She suggested we need to lobby for that. Governor Delgado said the Governor needs supports from Santa Fe and communities throughout the state to accomplish a ban.

Mayor Delgado said with regard to acceleration of the thinning process, he believes the contractor is permitted to have only so much on the ground before continuing. Officer Nolde said it isn't a restriction in the EIS or in any of the documents, but there is a concern about how much they have that can be burned the following year. This isn't the mulch, but the part that is hand-thinned and either hand piled or machine-piled. This must have time to dry, and there is a concern about how much can be burned without smoke impact on the community.

Councilor Wurzbarger asked what to do with trees infested with bark beetle. Officer Nolde said if a tree has been infested it is dead and the best thing is to remove the tree entirely from the property. It is possible when not in an epidemic situation to solarize – cover the logs with plastic and “bake” the beetles. However, at this time, the safest thing is to remove the tree and take it to the landfill. Councilor Wurzbarger asked if the roots need to be removed as well. Officer Nolde said no, the beetles live only in the trunks of the tree and the tree limbs.

Mayor Delgado asked if Fabian Chavez is open to people calling him for direction. Mr. Romero said Mr. Chavez is available to the public and can be called at Parks & Recreation at any time, and offers that expertise. Mr. Romero suggested noticing his phone number in the next water billing. Mayor Delgado said this is a good idea.

Councilor Heldmeyer thanked everyone, including Santa Fe firefighters, who assisted Albuquerque in fighting its Bosque fire without losing any structures. She thanked Officer Nolde for meeting with neighborhoods in her District. She asked Officer Nolde to provide her phone number for any neighborhoods which want to pursue an urban interface safety program. Officer Nolde said her direct line is 955-3118 at Station

One Headquarters.

Councilor Bushee said watering native piñon trees is the best preventative which is difficult in drought circumstances. Officer Nolde said this is one option. However, spraying highly valuable trees with Seven one at a time is effective. The local tree services have Seven on hand.

Mayor Delgado thanked Officer Nolde and Chief Sperling for the information presented.

[Conclusion of Presentations.]

CONSENT CALENDAR DISCUSSION

i) Request for Approval of Professional Services Agreement – Advertising Services for Santa Fe Trails Buses, Shelters and Benches (RFP No. 2003/18/P); Templeton Marketing Services. (Joyce Bond)

Councilor Bushee asked if there is a built-in board or a process to review the type of advertising. Mr. Williams said there is an advertising policy which was approved by Council last year which gives direction on what can and can't be done. However, the contractor is required to submit any proposed advertising to the City which might be confrontational or of concern. There is no requirement to go to the TAPL, although that can be done. Councilor Bushee asked where that is found in the contract. Ms. Bond said she doesn't know where the provision is found, but the contract requires the contractor to adhere to the advertising policy. The contractor has a copy of the advertising policy as adopted.

Councilor Chavez said page 1, Section B, Advertising Media, provides that "Durable advertising signs shall be produced in a process subject to the approval by the City," and asked if this is the appropriate language. Ms. Bond said it is.

Councilor Bushee said then staff reviews. Ms. Bond said there will be a review. Councilor Bushee said previously metal signs were placed on the back of bus benches which were hot in winter and cold in winter.

Mr. Don Templeton said there are two types of benches. One with a hinge on the back with a plexiglass front with the sign placed behind the plexiglass. The bulk of the benches are the plastic slatted benches. It is planned to mount masonite with lexan or plexiglass over that.

It was moved by Councilor Bushee, seconded by Councilor Lopez, that the request be approved.

DISCUSSION: Mayor Delgado asked if it will be easy to remove graffiti from the materials being used for this project. Mr. Templeton said that is why there will be double mounting of the plexiglass over the sign because graffiti can be removed more easily from the plexiglass.

The motion carried on the following Roll Call Vote: For: Councilor Lopez, Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzbarger.

Against: None

j) **Request for Approval – Comprehensive Insurance Program Coverages; Willis. (Henry Aranda)**

1) **Request for Approval of Budget Increase – Risk Management.**

Councilor Heldmeyer said this item was pulled because staff wanted to make comments on the retiree insurance.

Mr. Romero said the original proposal he submitted on the retiree health program during the budget process was for a premium increase of 50% to 75% to 100%, depending on the number of years service with the City. After further research, talks with the Union, and examining the Union contracts, right now they are unclear. He would like to increase the insurance premium in the same amount as active employees – 15% – until the City goes into negotiations on July 15th in order to get clarity on retiree health insurance premiums and benefits through the contracts.

Councilor Heldmeyer asked how this recommendation will affect the budget. Mr. Romero looked at this and increasing employees from .5% to .75%, based on their salary which is tiered, the City contribution would increase from 1% to 1.5%. He said his calculations are based on historical data and that this would be sufficient until he was able to get clarity. He believes the retiree health fund would not require subsidy from any fund at this point.

It was moved by Councilor Heldmeyer, seconded by Councilor Lopez that the request be approved.

The motion passed on the following Roll Call Vote:

For: Councilor Lopez, Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger.

Against: None

o) Request for Approval of Professional Services Agreements – Economic Development Services. (Steve Whitman)

1) Santa Fe Business Incubator, Inc.

2) Santa Fe Economic Development, Inc.

Councilor Wurzburger is concerned about the change made by Finance to change the contract from one year to six months with the rationale that the City is developing a new economic development plan. She said normally she would be in concurrence with such a strategy and approach because it is important to have activities flow from the plan. However, she has two concerns. She can't imagine a plan which would go too far into the future without these two businesses which have served so ably in the past. Two, she prefers not to spend staff time in renegotiating the contracts after six months. Also, she is unsure we can meet the projected timeline for the plan. She wants the work of these two groups to continue through the year when there will be an economic development plan in place. The contracts can be reevaluated at that time.

It was moved by Councilor Wurzburger, seconded by Councilor Lopez that the contracts be accepted as proposed with a modification back to a one year contract.

DISCUSSION: Councilor Lopez said the City won't realize its investment in a six month contract because of the uncertainty that we put into the contractor's life. She recently represented the City at the Conference of Mayors, where Santa Fe was one of eight cities receiving rewards for its incubator. She said our Incubator has been recognized as a model for other incubators. We have spent a lot of money in developing it. She said the most important thing for a business entity is to have predictability. Councilor Lopez said she attended a luncheon of Santa Fe Economic Development, Inc., where the Governor spoke and praised the work of SFEDI in its clustering and the work it is doing. A six month contract is very limiting.

Councilor Lopez said although she knows we are working on a new plan, she can't imagine any plan without the Incubator or SFEDI being involved. Santa Fe is becoming THE model in this regard. She asked the Council to provide a one year contract. By that time, there will be a plan and these groups may or may not be a part of that plan.

Councilor Bushee asked the rational behind a six months contract, and asked the

Incubator if it objected to a six month contract.

Councilor Ortiz would like a separate vote on these contracts. He said the Finance Committee rationale, at that time, was that this one year contract would have extended the time of these contracts into the adoption of the plan which is still in formation. The City should have an economic development plan by the end of this year.

Councilor Bushee asked if that was done with the rationale that neither of these contractors would be able to implement the plan.

Councilor Ortiz said his thinking as the maker of the motion was that we should not be granting contracts in advance of a plan which has not yet been formulated for two reasons. The first is based on previous experience in awarding the Railyard Plan. The City gave contracts to certain stakeholders. Those stakeholders, in getting contracts that exceeded the adoption of the plan, were allowed to become primary in the plan. It is difficult to assess or analyze any particular entity when that entity has a contract which is ahead of a plan to be adopted. Second, the six months contract would keep us from getting far afield of ourselves in developing a planning process, would put pressure on staff and the Council to adopt a plan, and if these entities are in the plan they aren't in a priority status. If the plan is going to be delayed, the Council would have sufficient time to be able to extend the contracts. He believes it would take less than an hour to renegotiate these contracts from six months to one year, and staff time to do this would be relatively small. All that was changed was the time period and the amount of money.

Councilor Ortiz is sensitive to the issues raised by Councilor Lopez with regard to the consideration of the businesses in terms of financial planning. He understood that the Incubator would accept a six year contract, and that SFEDI would decline a six month contract. He reiterated that he would like to vote on these contracts separately.

Councilor Bushee asked Marie Longserre to comment on the Incubator.

Marie Longserre said there are certain inefficiencies in the use of resources for a business to be asked to renegotiate and rebudget halfway through the year. However, this is a decision to be made by the Council although there will be difficulties. This hasn't been discussed by the Board for an official position.

Councilor Bushee asked if the Incubator would accept a six month contract. Ms. Longserre said the Incubator isn't in a position to refuse. The Incubator relies on its contract with the City, and the City has generously agreed to support this program. So much of what the Incubator does hinges upon the match from the City, and there would be some problems.

Councilor Bushee asked Mr. Whitman if other contractors applied. Mr. Whitman said

only these two contracts have been brought forward and which are in the 4th year of renewal – the original RFP provided for 3 additional renewal years. Trade does not have a current contract.

Councilor Bushee asked if other contractors will apply for City economic development funds. Mr. Whitman said others are expected to be very interested once the plan is approved.

Councilor Bushee said she has expressed concern to the City Manager about filling the new position under affordable housing and economic development. She is concerned that we seem to “sit and wait for results.” She said both groups have proven to be capable contractors and this is just a renewal agreement. She can’t see how either contractor would not be able to implement whatever plan is approved. At that point, the scope of work could be refocused and the contract amended if necessary. She will vote against the request and vote for both contracts to be for one year.

Mayor Delgado said the letter from Kathy Zacher, provides that, “SFEDI will graciously decline the contract,” if it is at 50%. He understands this is not the position of the Incubator. Ms. Longserre said that isn’t their position, but that the official position would be up to her Executive Committee and Board.

Councilor Heldmeyer said she thought part of the reason to do the economic development plan is that many things were on hold, and many groups funded by the City were not successful. It appeared that much of what the City was doing wasn’t working. In the case of the Incubator, the plan will include an incubator – probably this incubator – because it’s the only one we have. However, in terms of implementing the plan, she can’t say that one group will do a good job of implementing the plan because she doesn’t know what the plan will be. It seemed a reasonable compromise to renew the contract for six months as opposed to funding nothing at all until the plan is approved. Staff was directed to return to Finance after four months, if it appeared the plan would be delayed then Finance would be willing to renegotiate the contract for additional funds. She said this was a way to say to the contractors that the City wants the contracts to match what is actually done and what the City wants done.

Councilor Pfeffer is leaning toward voting for the motion because he has never heard a negative thing said about either of the two organizations. The work they’ve reported to the Council has always been positive. He can’t imagine an economic development plan which would require putting their work on short term notice. He is uncomfortable that the Incubator says it has no choice but to accept the terms given by the City.

Councilor Coss asked, for clarification, if the cost would go from \$150,000 to \$300,000 if the motion passes. Mayor Delgado said the cost would double.

Councilor Lopez said these contracts have been in place for 3 years and this is their

final year. The contracts could be canceled at an earlier time during the 12 months of the contract. If there are new goals, and we need to issue an RFP, it takes a minimum of two months to issue the RFP and do the interviews, and then it is necessary to negotiate a contract, go through the Committee process and final approval by the Council. She said even with a new economic development plan by year's end, it will take until the end of May to get all the new services on board.

Councilor Bushee said over the past 3 years she has seen fewer and fewer contracts go out for economic development, noting the loss of the apprenticeship and mentoring programs. There hasn't been a director of economic development. These groups have had a great hand in selecting the contractors that are developing the new plan.

Councilor Wurzbarger reminded the Council that in the RFP for the plan, it was emphasized that the City wasn't interested in starting the entire process over, but to build on what we are doing that is working.

Mr. Whitman said the total for one year contracts for both groups is approximately \$140,000.

Mayor Delgado asked if the plan contractor has interviewed SFEDI and the Incubator. Mr. Whitman said they have. Mayor Delgado said the expertise in these organizations will add to, and make the plan even stronger. He believes the plan process may take a little longer than thought, and that's okay because we want a plan which works.

Mayor Delgado said, in consideration of Councilor Ortiz's request, he would like to vote on the contracts separately.

The motion that the contract be accepted as proposed with a modification back to a one year contract for the Santa Fe Business Incubator passed on the following Roll Call vote:

For: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzbarger.

Against: None

The motion that the contract be accepted as proposed with a modification back to a one year contract for Santa Fe Economic Development, Inc., passed on the following Roll Call vote:

For: Councilor Bushee, Councilor Chavez, Councilor Lopez, Councilor

Pfeffer and Councilor Wurzburger.

Against: Councilor Ortiz, Councilor Coss and Councilor Heldmeyer.

q) Request for Approval of Amendment No. 5 to Professional Services Agreement – CVB Advertising Services Renewal; Maverick Advertising & Public Relations, Inc. (Darlene Griego)

Councilor Wurzburger said she has three questions to ask. First, she asked Ms. Griego to explain her thoughts on how the marketing will dove-tail with the economic development plan and visa versa. Ms. Griego said Clarissa with Maverick, has been attending the meetings, is a part of the focus group and will be working on integrating that into the plan.

Councilor Wurzburger asked Ms. Baca for any highlights of the evaluation. Ms. Baca said the most significant is the increase in the traffic on the website which is now at 56% over last year. The cost per inquiry for media placement is at \$3.67, while the industry average is about \$5. The cost for the total increase, including the website is 60¢. This was a very good return on the City's investment.

Ms. Baca said the CVB has remained stable in a disastrous financial/economic climate. The CVB was flat over last year until March when there was a 7% decrease, with April slightly better at a 5.2% decrease. In May there was a slight increase of ½% over last year.

Councilor Wurzburger asked Ms. Baca the projected differences for next year's contract. Ms. Baca said there is no difference in the language of the contract, and this is just a renewal of the contract.

It was moved by Councilor Wurzburger, seconded by Councilor Ortiz, that the request be approved. .

The motion passed on the following Roll Call Vote:

For: Councilor Lopez, Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger.

Against: None

r) Request for Approval of Memorandum of Agreement – Park &

Santa Fe City Council Minutes: June 25, 2003

**Ride Lot; New Mexico State Highway and Transportation Department.
(Leroy Pacheco)**

a) Request for Approval of Budget Increase – Project Fund.

Councilor Bushee said she has received calls and letters from people who were counting on using the existing location for pickup on the Park & Ride. Those people rented apartments or located themselves in the area of the existing pickup at Ft. Marcy. She commented the pickup has now been moved to the Radisson, and asked why the change.

Mr. Robert Romero said this is a request from the State Highway & Transportation Department. The parking at Ft. Marcy is temporary, and the permanent parking facility for Park & Ride will be at the Radisson. It is expected that the facility will be constructed within four months. The State is fully funding this construction and the City's match will be the property.

Councilor Bushee said the people who contacted her have only one vehicle and will now have to walk or ride bicycles to the Radisson. She asked if there is the possibility of a shuttle or other transportation from the current location to the Radisson. Mr. Robert Romero said he will discuss this with the Highway Department and believes they will be willing to work with the City in this regard.

It was moved by Councilor Bushee, seconded by Councilor Chavez, that the request be approved with the condition that Mr. Robert Romero look into options for pickup at Ft. Marcy.

The motion passed on the following Roll Call Vote:

For: Councilor Lopez, Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzbarger.

Against: None

Councilor Pfeffer, explaining his yes vote, wants emphasis that the consideration of the pickup of people at Ft. Marcy be taken seriously, and soon.

u) Request for Approval of Sole Source Procurement and Professional Services Agreement – Administrative and Policy Assistance Services for Fair Housing Program; Enterprise Foundation. (Alexandra Ladd)

Councilor Bushee understands there was something in writing from the City Attorney with regard to sole source providers. She said we have been doing this contract for about ten years. She doesn't mean to say that the Foundation hasn't been serving its purpose under the contract, but she wonders if we really thoroughly review and examine this as a sole source provider.

It was moved by Councilor Ortiz, seconded by Councilor Lopez, that the request be approved.

DISCUSSION: Councilor Bushee said the Foundation is staffing the Roundtable and administering the new fund, seeking grants and asked Ms. Ladd to comment on the grants, and if there truly is no other organization which serves this purpose.

Ms. Ladd said the Foundation, because of its vast array of resources and networks across the nation, is in a unique position to access different kinds of funding. The Foundation receives a technical assistance grant from HUD which is distributed nationwide, and Santa Fe's share of that grant is \$50,000. Mr. Rosenthal, Director of Enterprises for the Foundation, just advised her that he has applied for another \$50,000 within the calendar year for a total of \$100,000 which is used only in Santa Fe to provide technical assistance to its housing providers.

Councilor Bushee asked Ms. Ladd if staff could apply for that grant. Mr. Ed Rosenthal said the funding is from the Department of Housing & Urban Development out of D.C., and there are only two organizations nationally which receive that funding and can pass it through – the Low Income Support Group a subsidiary of the Rockefeller Foundation, and the Enterprise Foundation. The Enterprise Foundation gets a portion of the large grant and then decides which cities are funded. The Foundation works with Albuquerque and Las Cruces, but doesn't provide funding to those cities. He said the Foundation recently applied, on behalf of the SF Community Housing Trust, for a HOP grant to serve individuals with HIV and AIDS, with \$75,000 of that going to the Trust.

FRIENDLY AMENDMENT: Councilor Lopez would like to add a condition to ensure that there is no one else that can provide this service and in a timely fashion. An RFP can be issued next to establish that this is a sole source and there would be another four years before checking the market again. **The motion was friendly to the maker.**

Councilor Heldmeyer said many contracts have been passed along through the years, and there are things in the contract which are no longer done. She hopes the new director of Economic Development/Affordable Housing will revisit all of the long-term contracts, and distribute them on a more rational basis rather than on a historical basis. We need to give close scrutiny to be sure that every group is doing what makes sense and that we are not splitting responsibility between 2-3 groups when one could do it just as well.

The motion passed on the following Roll Call Vote:

For: Councilor Lopez, Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger.

Against: None

Councilor Wurzburger thanked Mr. Rosenthal for his hard work, and she expects him in the next year is to find a joint project with the County so we will know what we've done on affordable housing.

[End of Consent Calendar discussion.]

ACTION ITEMS

10. **CONSIDERATION OF RESOLUTION NO. 2003-53. (Councilor Ortiz and Councilor Lopez)**
A Resolution Directing Staff to Adopt Policies and Procedures for the City's Government Access Television Channel and to Coordinate with Northern New Mexico Radio Foundation to Establish Protocols and Programming Priorities for Programming to be Provided Under the Current Agreement Between New Mexico Radio Foundation and the City.

It was moved by Councilor Ortiz, seconded by Councilor Lopez, that Resolution No. 2003-53 be approved.

Discussion: Councilor Bushee doesn't understand the need for this Resolution.

Councilor Lopez said the City continues to put money into contracts, and it is felt that these contracts need appropriate oversight to ensure that the City's objectives are being implemented. There has never been a statement of policies in these areas and it will be up to this committee to provide that.

Councilor Bushee asked Councilor Lopez if she wants to include the Radio station. Councilor Lopez said she does because the City gives \$70,000 to the station each year using franchise fees from Comcast, and to get the parties to work together to share resources and accommodations for the public good.

Councilor Bushee asked if this will go through Rick Carlisle. Councilor Lopez and

Councilor Ortiz presume this is correct. Councilor Bushee asked who decides the programming priorities. Councilor Ortiz presumes it would be the Council once Mr. Carlisle develops the plan and it goes through the committee process.

FRIENDLY AMENDMENT: Councilor Pfeffer would like to add a #5 on page 2, as follows: "5. Ensuring a broad diversity of editorial opinion in programming more reflective of the community at large." **The amendment was friendly to the maker and second.**

Mayor Delgado said, as we look through the policies and procedures, he would like to bring all of these together into a sole contract for all of the radio stations so they don't have to wait for Parks & Recreation, for example to pay.

Mr. Romero said Juan Rios has been able to retain all of the information from all the departments for both radio and newspapers, and will be looking at that to make recommendations to Mr. Carlisle with regard to the best way to bring them together.

Councilor Ortiz said then Mr. Romero is giving administrative direction to Mr. Rios to "corral" all of the different departments into one source point at the City. Mr. Romero said that request was made during the budget process, and Mr. Rios has been gathering information on what media outlets are being utilized by the City.

The motion carried on a Roll Call vote as follows:

For: Councilor Lopez, Councilor Bushee, Councilor Coss, Councilor Chavez, Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzbarger.

Against: None.

11. **Case No. A-2003-06. Plaza Santa Fe/Payless Shoes. Determination of Whether to Invoke Section 14-2.2(A)(2)(a) to Review the Planning Commission's Decision to Uphold the Plaza Santa Fe/Payless Shoes' Appeal from the Water Budget Administrative Office's (WBAO) Decision to Apply the Offset Program for Building Permit No. 03-201 Located at 3517 Zafarano Drive. (Bruce Thompson)**

Mr. Thompson said concern was raised by some Councilors with regard to a decision made by the Planning Commission. There is no direct appeal from that decision, but City Ordinance provides that the City Council can review any decision of the Planning Commission. Mr. Thompson said the request is for a decision of whether

or not, at a future council meeting, to bring this matter up for review. There will be no decision this evening other than whether or not the City Council wants to review the decision of the Planning Commission.

Councilor Pfeffer asked what was the decision of the Planning Commission.

Mr. Thompson said the decision of the Planning Commission dealt with whether or not retrofits were required in a building which had been built as a shell, where the building permit for the shell had been issued timely, to avoid the requirement to retrofit. The decision of how to use the building in the actual building permit to complete the development of the building happened at a later date, after the time retrofits would have been required. The Planning Commission, contrary to wishes of staff, determined that retrofits would not be required on that particular building.

It was moved by Councilor Pfeffer, seconded by Councilor Lopez that the Council review the Planning Commission decision in this case.

Discussion: Councilor Lopez asked how this item came to be on the Agenda. Mr. Thompson said he requested this be placed on the Agenda after he was contacted by two City Councilors who preferred that it be placed on the Agenda as a matter from the City Attorney's office. He agreed and placed his name on the request.

Councilor Lopez doesn't understand why people don't want their names on something they want reconsidered. She doesn't want staff doing an end run when it doesn't like a decision made by an appointed body. She is fine with the request coming from the Council. She wanted to ensure this request wasn't staff driven. Thompson ensured the Mayor and Council that this is not a request from staff.

Responding to the Mayor, Mr. Thompson said this would have to be done as a public hearing. Councilor Wurzbarger clarified the Council is voting this evening to review the decision of the Planning Commission.

Ms. Yolanda Vigil asked, for clarification, if the motion is approved, when will this issue be considered.

Councilor Ortiz, Parliamentarian, said this would be a hearing *de novo* so we must comply with notice requirements.

FRIENDLY AMENDMENT: Councilor Ortiz would like to amend the motion to hold this public hearing the at the last meeting of the Council on July 30, 2003. **The amendment was friendly to the maker.**

Councilor Bushee would like this heard the first meeting in August because she won't

be in town for the July 30th meeting. Councilors Lopez and Pfeffer will be absent for the first meeting in August. Mayor Delgado suggested the hearing at the second meeting in August. Councilor Pfeffer said he will be on vacation August 14-25, 2003. However, he thinks this needs to be heard by the Council.

FRIENDLY AMENDMENT: Councilor Lopez suggested that the hearing be held at the July 9, 2003, meeting. **The amendment was friendly to the maker and second.**

Responding to the Mayor, Mr. Thompson doesn't believe a 15 day notice is required and said we can have the hearing on July 9, 2003.

The motion carried on a Roll Call vote as follows:

For: Councilor Bushee, Councilor Coss, Councilor Chavez, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger.

Against: None.

12. Request for Reconsideration of Approval of Bid No. 03/61/B – Rain Barrels for Water Division; Home & Garcen Innovations.

- a) Request for Approval of Purchase Agreement; Home & Garden Innovations.
- b) Request for Approval of Budget Adjustment – Water Enterprise Fund.

Mr. Romero said a Councilor who voted in the majority will need to bring the reconsideration forward for a vote at the next meeting on July 9, 2003.

It was moved by Councilor Pfeffer having voted in the majority, seconded by Councilor Wurzburger, that the request for reconsideration of the approval of Bid No. 03/61/B, be done at the next regularly scheduled Council meeting on July 9, 2003.

DISCUSSION: Councilor Pfeffer said two protests to this bid award have been filed which delays the issuance of the Purchase Order. Councilor Pfeffer, along with Councilor Coss, is introducing an ordinance change to consider a voucher program. He asked that the City not accept any bids on this proposal which is well within the notice given to all bidders. The City does not have to accept any bids.

Councilor Pfeffer will be handing out, with the ordinance change, a proposal for a rebate

program for the City of Santa Fe. Instead of sending \$100,000 to an out-of state manufacturer for rain barrels that we sell at a 50% discount to the public, it would be better to spend our money in town and collect the City's portion of the gross receipts tax, while supporting our local businesses. He would like a reconsideration of this bid which is the fairest and wisest thing to do.

For: Councilor Lopez, Councilor Coss, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger.

Against: Councilor Heldmeyer, Councilor Bushee and Councilor Chavez

Councilor Heldmeyer, explaining her vote, said she is voting against this for the same reason she voted against the amended motion before. It is a matter of timing.

13. Request from Café Paris for Approval of Temporary License Agreement for Use of Burro Alley. (Paul Perrier, Café Paris)

It was moved by Councilor Ortiz, seconded by Councilor Bushee, that the request be approved.

FRIENDLY AMENDMENTS: Councilor Lopez offered the following amendments to the Temporary License Agreement:

Page 1, line 2, "..._____ 2002 2003, by and..."

Page 1, Paragraph 1 PREMISES, line 5, "...and consisting of ~~200~~ 300 square feet..." [at request of applicant]

Page 1, Paragraph 2 USE OF THE PREMISES, line 4, "...Tuesday through Sunday during the ~~lunch~~ hours of ~~11:30 a.m. to 3:00 p.m.~~ and during the ~~dinner~~ hours of ~~5:30 p.m. to 10:00 p.m.~~ 7:00 a.m. to 9:00 p.m."

The amendments were friendly to the maker and the second.

Councilor Lopez said at the time of the application, the applicant understood that no beer or wine could be sold on the outdoor tables. The applicant has since learned in speaking with the City Attorney that there is no requirement for that limitation. However, there are several requirements for a beer and wine license, such as beer and wine may only be served with food.

FRIENDLY AMENDMENT: Councilor Lopez offered the following amendments to the

Temporary Licensing Agreement:

Page 2: “b. Outdoor dining with food and ~~non-alcoholic beverage service only beverages~~;

Page 2: “d. ...sale or display of merchandise, sale of takeout alcoholic beverages...”

The amendments were acceptable to the maker and second.

DISCUSSION: Councilor Heldmeyer asked Mr. Hewat if this establishment has been under a red tag from the H-Board for some time. Mr. Hewat said this is correct. The applicant has been red tagged for murals which were painted on the building over a year ago. Councilor Heldmeyer said it was also red-tagged for the red/white/blue painting on the building and the benches attached to the building. Mr. Hewat understands the red tag was specifically for the murals and some lettering on the building.

Councilor Heldmeyer asked what is being done about that. Mr. Hewat said Mr. Perrier assured the H-Board at its meeting last night that he would be removing or painting over those murals, which was satisfactory to the H-Board.

FRIENDLY AMENDMENT: Councilor Heldmeyer would like to add a condition that they do not do this until they are in compliance with the requirements of the H-Board. **The amendment was friendly to the maker, but not to the second.**

Councilor Lopez said this is a condition in the contract on Page 2, “f. This license is subject to the provisions of Section 14-51 SFCC 1987.”

CONTINUATION OF DISCUSSION: Councilor Heldmeyer told the applicant’s attorney that if the applicant gets a beer and wine license the tables must be segregated from the general passing population by installing barriers or ropes.

Rosanna Vasquez, Attorney for Mr. Perrier, said this is a requirement and is also a requirement in the License Agreement. This is a condition that the tables that are in Burro Alley must be segregated and Mr. Perrier will comply.

Councilor Heldmeyer said the License Agreement requires “.. a barrier along the perimeter of the dining/patio area,” and asked if this means on all three sides. Ms. Vasquez said this is correct.

Councilor Heldmeyer asked the appearance of the barrier. Ms. Vasquez said previously the applicant had planters all the way around the area containing the umbrellas and

tables, and Mr. and Ms. Perrier plan on using those same planters around the area.

Councilor Heldmeyer said the License Agreement provides on page 2, “e. Adequate lighting, acceptable to City staff, to be provided at the Licensees’ expense within the Premises;..” She said the previous lighting was not acceptable to City staff, but it stayed anyway.

Mr. Hewat said there was no discussion of lighting at last night’s H-Board meeting. The application didn’t contain details regarding additional lighting. Three new lamps have been installed, and he doesn’t know whether or not those are adequate. Mr. Hewat said previously there were strung Christmas lights which are prohibited except around Christmas.

Councilor Heldmeyer asked Mr. Perrier his plans for the lighting. Mr. Perrier said he has Christmas lights. Councilor Heldmeyer said those are prohibited in the H-District except during the Christmas season – Thanksgiving through the New Year.

Mr. Perrier asked what lights can be placed on the table. Councilor Heldmeyer said whatever lights are used must be approved by Mr. Hewatt.

Ms. Vasquez said the applicant will work with Mr. Hewat on the lighting for the tables and whatever needs to be done to comply.

Councilor Heldmeyer asked about the temporary closure indicated behind the temporary outdoor dining on the map in the packet. Ms. Vasquez said she isn’t sure, although she believes it had to do with the construction in 2001. Ms. Vasquez presented copies of an “Existing Partial Floor Plan,” which is incorporated herewith to these minutes as Exhibit “2.” This is an updated design of the table set-up on Burro Alley, although it is not to scale. She said it is planned to ensure there are no tables in front of any working emergency access for the Lensic Theater, and that pedestrian access is available so people can walk back and forth.

Councilor Heldmeyer knows everyone wants this to be a “lively, fun, 24 hour kind of place, but I think this is a huge mistake and I’m going to vote against it, and I’m probably going to be in the minority.” Mr. Perrier wants space and then the Palace Restaurant and the Lensic will want space. She said this ancient way, so designated in 1920 as a place for people to cross town, will then become a place where people are dodging tables to get from one place to another. The whole point of closing Burro Alley was to encourage people to walk between the two ends of Burro Alley. It will not be as designated so long ago.

Councilor Chavez asked if the City has a policy which regulates the lease of City public right-of-way to guide the City in handling requests in the future. If we open the door for one, we should be ready to open the door for others. He said a previous request to use

public right-of-way along Airport Road was denied for safety reasons and because there was no policy in place to regulate that. Where is the policy for this.

Mr. Romero said City Clerk Yolanda Vigil, Parks & Recreation Director Ron Shirley, Planning & Land Use Director Sandra Aguilar and he, have worked together to develop policy and procedure for these kinds of requests. That document is in draft form and ready to take through the committee process then to the City Council. There is no written policy or procedure at this time.

Councilor Bushee understands the concern about public access. However, there are two sidewalks on the proposed plan. She understands that this is an ancient way. However, to permit this now would make that an ancient but lively way to get from one side of downtown to the next. She is concerned that some things which have been approved in Burro Alley are the least historical in the entire ancient way – the bollards on both ends and the three ugly lights which were somehow approved. She said there will be a mural on the Lensic. The idea was to let this happen. She suggested the Council might want to limit this Lease Agreement as the only one in the area for this year.

FRIENDLY AMENDMENT: Councilor Bushee proposed the following amendment to the Lease Agreement:

Page 2, “e. Adequate lighting, acceptable to City ~~staff~~ Manager, to be...”

The amendment was friendly to the maker.

CONTINUATION OF DISCUSSION: Councilor Coss would like to see Burro Alley more lively, but he is concerned about the history for the same reasons as Councilor Heldmeyer. This seems very similar to a request he brought forward which was not approved. The fee of \$343 seems to be far below fair market rate, and perhaps a violation of the anti-donation clause. If we are going to sell our history at less than a fair market rate, without any policy, it is too cheap and we are setting a precedent. Councilor Bushee recalled the lease to The Burrito Company on an annual basis, and asked if this lease was based on that pricing agreement. Ms. Vigil said this is the fee which was in place on the previous license agreement, based on the 200 sq. ft.

Mr. Romero said if the council would like, he will look at the fee structure of The Burrito Company, and apply the same fee structure to this lease. He said square footage costs at market rate will be part of the policies and procedures being developed.

Councilor Coss would like an appraisal to be done, and look at value and use because each of the tables will be worth thousands of dollars over the summer. If that’s not true he would be surprised, and he believes the citizens deserve more for commercial use of

its space.

Mayor Delgado said everything Mr. Romero is being asked to do will take until October, and that will be past the season. Mr. Romero said it would take some time to get an appraiser to come downtown to do an appraisal and submit the paperwork. He said these kinds of things can be done in the proposed rules and regulations.

Mr. Sperling said one of the conditions established by the City Fire Department is that the traffic flow for the tables is to be restricted to the street and not extend onto the sidewalk, and that the sidewalks will be reserved for egress, from the Lensic Theater in particular.

Mayor Delgado asked if the applicant agrees with that condition. Ms. Vasquez said the applicant agrees.

Councilor Heldmeyer agrees with Councilor Coss. The City staff, with regard to selling on City right of way, recommended that the City not get into this. The Public Works Committee left the issues there. There have been exceptions made for selling downtown. These are very valuable square footages that we are renting for a pittance. The square footage is recommended to be increased from 200 to 300, but she heard nothing about increasing the pittance. This is a serious issue. If the other entities attached to Burro Alley also want space, then we need to think about what is fair market for them as well as other areas downtown. She believes we need to give direction to the City Manager that as policy we need to think about what is fair value.

FRIENDLY AMENDMENT: Councilor Lopez said in the interest of fairness she would like to add \$171 to the annual fee for the additional square feet to increase the rental from \$342.50 to \$514. **The amendment was friendly to the maker and second.**

FRIENDLY AMENDMENT: Councilor Pfeffer suggested the rental be \$342.50 per month for the 3 months. He agrees that a policy is needed, and would like to see other businesses come in with requests to sell on public property. He would love to add life everywhere downtown. **The amendment was not friendly to the maker and second.**

CONTINUATION OF DISCUSSION: Responding to Councilor Bushee, Mr. Romero said this first began in 2001, commenting that 1-2 businesses were lost along the way.

Councilor Bushee would like any rental to be based on good, historic calculation which she understood this to be, pointing out that we came up with figures for the Plaza merchants and the Burrito Company which she believes this is the basis of the proposed rental. She would like to try this for the summer.

ADDITIONS TO THE MAIN MOTION, AS AMENDED: Ms. Vigil said there is an ordinance which requires that when consumption of alcoholic beverages are done on

public property it is necessary to request approval through the governing body, and asked Councilor Ortiz to include that as part of the motion. She said the site plan is approved by alcohol and gaming **Councilor Ortiz said this is part of his motion.**

Councilor Coss said this is going to pass and he will have constituents asking him if they can set up their stands next door. What does he tell them.

The motion carried on a Roll Call vote as follows:

For: Councilor Lopez, Councilor Bushee, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger.

Against: Councilor Heldmeyer, Councilor Chavez and Councilor Coss

13(b) Request for Approval of the Second Amendment To Municipal Arterial Program Agreement Certification Project #D09987 (Robert Romero)

A copy of the Second Amendment To Municipal Arterial Program Agreement Certification Project, Contract No. DO9987/2, distributed by Mayor Delgado, is incorporated herewith to these minutes as Exhibit "3."

Mayor Delgado said he received notification this morning and the deadline is coming up so this was added to the agenda.

It was moved by Councilor Lopez, seconded by Councilor Coss, that the request be approved.

The motion carried on a Roll Call vote as follows:

For: Councilor Lopez, Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger.

Against: None.

Abstain: ~~Councilor Wurzburger~~

Before casting their vote, the following questions were asked.

Councilor Bushee asked if there are advertising problems with this request. Mr. Thompson said with respect to whether it is an emergency, the State has said the money will be lost on June 30th if the Council doesn't approve this matter. Councilor Bushee asked if we declared an emergency this evening. Mr. Thompson said it is not necessary to declare an emergency, it is an emergency matter and why it was put on

the Agenda by the Mayor.

Councilor Chavez asked for an explanation of what he is agreeing to. Mr. Robert Romero said this action gives the City until December 30, 2003, to contract the improvements at the intersection of Rodeo Road and Richards Avenue. The original contract only gave the City until June 30, 2003, but because the City is acquiring right-of-way, it is taking longer than expected. This permits us to spend the \$930,000 that the State is giving the City at that intersection. The agreement provided that we had to be under contract by June 30, 2003, this revision says we have to be under contract by December 30, 2003.

Councilor Wurzbarger said now that she understands the motion, she would like to change her abstaining vote to yes.

MATTERS FROM THE CITY ATTORNEY

The City of Santa Fe is a Party Amicus in the Case of Minnow v. Keys. Recently Decided by the Tenth Circuit. Discussion is Requested on the Impact of that Decision on the City's San Juan Chama Project Water in Order to Review Litigation Options in that Case and on Related Litigation that is Threatened as a Result of that Decision. The Session is Sought Pursuant to §10-15-1(H)(7) and (8) NMSA.

Mayor Delgado asked Mr. Thompson how long the Executive Session will take. Mr. Thompson said that will have more to do with regard to how many questions the Council may have, but the presentation should take about 20 to 30 minutes.

Mayor Delgado said the Council will go into executive session and will reconvene at 7:15 p.m. for the evening session.

It was moved by Councilor Lopez, seconded by Councilor Heldmeyer, that the Council go into Executive Session to discuss the case of Minnow v. Keys in which the City is an Amicus Party, and the impact of that decision on the City's San Juan Chama Project Water and to review litigation options and related litigation possibilities.

The motion carried on a Roll Call vote as follows:

For: Councilor Wurzbarger, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Pfeffer. [Not present for this action: Councilor Bushee, Councilor Chavez, and Councilor Ortiz.]

Against: None.

RECESS

Recess was called at approximately 6:35 p.m.

EVENING SESSION

The Evening Session was called to order at approximately 8:00 p.m. by Mayor Delgado. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum as follows:

Members Present:

Mayor Larry A. Delgado
Councilor Carol Robertson Lopez, Mayor *Pro Tem*
Councilor Patti J. Bushee
Councilor Miguel M. Chavez
Councilor David Coss
Councilor Karen Heldmeyer
Councilor Matthew E. Ortiz
Councilor David Pfeffer
Councilor Rebecca Wurzbarger

Members Absent:

None

E. PETITIONS FROM THE FLOOR

Mayor Delgado established a two minute limit for each speaker. All petitioners were sworn by Yolanda Vigil, City Clerk, prior to approaching the microphone and podium.

Stephanie Bennanato. P.O Box 1601, Santa Fe, New Mexico 87504. Ms. Bennanato is in attendance to petition the City Council and Mayor to require the City Attorney to meet with her, this time in good faith, to negotiate a settlement concerning a lawsuit she has with the City concerning discrimination and civil rights violations. She believes she has very clear evidence – records from the City itself – showing the City has not followed its own procedures. She believes there are some ethical violations around this lawsuit on which she hopes Councilor Bushee will be getting back to her. She is willing to settle now rather than dragging the matter out and asking the same questions of her over and over, etc. She believes it is wasting taxpayer's money and wasting her time and other people's time. She is willing to settle given certain things would happen. She would be very reasonable and the City would save a lot of money doing this. She would like this done within the next 3 weeks.

Mayor Delgado asked Mr. Thompson to visit with Ms. Bennanato on this matter. Mr. Thompson said Ms. Bennanato is represented by counsel and it would be unethical for him to speak to her until there is a Motion for the withdrawal of counsel.

Mayor Delgado asked Mr. Thompson if he could speak to her attorney. Mr. Thompson said because of the position of the case that would be impractical because he believes her is trying to withdraw from the case.

Mr. Bennanato said the lawyer has officially withdrawn from the Federal case which is the one on which she is asking the City Attorney to meet with her. She said eventually the lawyer will withdraw from the other case. She said there is another lawyer involved and they could meet with him because he is the representative for the City.

MOTION TO COME OUT OF EXECUTIVE SESSION

It was moved by Councilor Lopez, seconded by Councilor Pfeffer, that the Council come out of Executive Session and to clarify that the only matters which were discussed were those matters listed on the Agenda.

The motion passed on the following voice vote: Councilor Bushee, Councilor Coss, Councilor Lopez, Councilor Heldmeyer, Councilor Pfeffer and Councilor Wurzburger voting for, and none against. [Not present for this action: Councilor Chavez, and Councilor Ortiz.]

Against: None.

F. APPOINTMENTS

Parking Advisory Committee

Mayor Delgado recommended the appointment of the following individuals to the Parking Advisory Committee for terms ending March 2007:

Ed Berry, Chair
John G. Barker
Darlene Griego
Katherine Kagel
Ish Lovato
Georgia Maryol
Robert Werner
Bill Taylor

It was moved by Councilor Lopez, seconded by Councilor Wurzburger, that the appointments be approved.

The motion passed on the following voice vote: Councilor Bushee, Councilor Coss, Councilor Lopez, Councilor Heldmeyer, Councilor Pfeffer and Councilor Wurzburger voting for, and none against. [Not present for this action: Councilor Chavez, and Councilor Ortiz.]

G. PUBLIC HEARINGS

All those speaking at the Public Hearings were sworn by City Clerk Yolanda Vigil prior to speaking to the issue.

- 1) **Request from Bumble Bee's Baja Grill, LLC, for a Restaurant (Beer & Wine) license to be located at Bumble Bee's Baja Grill, 301 Jefferson. (Yolanda Y. Vigil)**

Ms. Vigil said this request is for a Beer & Wine licenses to be located at Bumble Bee's Baja Grill, LLC. The location is not within 300 feet of a church or school. Staff recommends that Bumble Bee's Baja Grill is required to comply with the City's litter and noise ordinance.

Public Hearing

There was no one speaking for or against the request.

The Public Hearing was closed.

It was moved by Councilor Lopez, seconded by Councilor Wurzburger, that the request be approved.

The motion carried on a Roll Call vote as follows:

For: Councilor Bushee, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Pfeffer and Councilor Wurzburger. [Not present for this action: Councilor Chavez and Councilor Ortiz

Against: None.

- 2) **Request from Jake's Dining Co., Inc., for a Transfer of Ownership of Dispenser License #2517 from Nerio S. Gonzales to Jake's Dining Co., Inc. This License will**

**Remain at the Santa Fe Bar & Grill, 187 Paseo de Peralta.
(Yolanda Y. Vigil)**

Ms. Vigil said this request is only for a transfer of ownership of Dispenser License 2517 and will remain at Santa Fe Bar & Grill. The license will transfer from Jake's Dining Company from Nerio S. Gonzales to Jake's Dining Company. The location is not within 300 feet of a church or school, and staff recommends that Santa Fe Bar & Grill continue to comply with the City's litter and noise ordinances.

Public Hearing

There was no one speaking for or against the Ordinance.

The Public Hearing was closed.

It was moved by Councilor Coss, seconded by Councilor Lopez, that the request be approved.

For: Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Pfeffer and Councilor Wurzbarger. [Not present for this action: Councilor Bushee Councilor Ortiz]

Against: None

Abstain: Councilor Chavez

**2) Request from Michael O'Reilly, Inc., for the
following: (Yolanda Y. Vigil)**

- a) A Waiver of the 300 Foot Location
Restriction to Allow the Sale of Alcoholic Beverages at
the O'Keeffe Café, 217 Johnson Street, Which is Within
300 Feet of the First Presbyterian Church, 208 Grant
Street.**
- b) If the Waiver of the 300 Foot Restriction is
Granted, a Request for a Restaurant (Beer & Wine)
License to be Located at the O'Keeffe Café, 217 Johnson
Street.**

Responding to Mayor Delgado, Ms. Vigil said there will need to be two separate votes.

Ms. Vigil this is a request for a waiver of the 300 ft. location restriction, and if approved, then a request for the approval of the issuance of a Restaurant License. The location is within 300 ft. of the First Presbyterian Church. However, there is a letter from the First Presbyterian Church in the packet stating it has no opposition to this request. There currently is a Restaurant License there, but this reapplication is required because there is a transfer of ownership.

Public Hearing

There was no one speaking for or against either the waiver or the request for a Restaurant License.

The Public Hearing was closed.

It was moved by Councilor Wurzbarger, seconded by Councilor Lopez, to grant the waiver of the 300 ft. location restriction to allow the sale of alcoholic beverages at the O’Keeffe Café, 217 Johnson Street.

The waiver was granted on the following Roll Call Vote:

**For: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Pfeffer and Councilor Wurzbarger.
[Absent for this action: Councilor Ortiz].**

Against: None.

It was moved by Councilor Chavez, seconded by Councilor Wurzbarger, to approve the request for a Restaurant License to be located at the O’Keeffe Café, 217 Johnson Street.

The request for a Beer and Wine License was approved on the following Roll Call Vote:

**For: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Pfeffer and Councilor Wurzbarger.
[Absent for this action: Councilor Ortiz].**

Against: None.

- 4) CONSIDERATION OF RESOLUTION NO. 2003-54. (Mayor Delgado) A Resolution Proclaiming Severe or Extreme Drought Conditions in the City of Santa Fe and Restricting the Sale or Use of Fireworks Within the City of Santa Fe. (Chief Sperling)**

Chief Sperling said the U.S. Drought Monitor of June 17th indicates we are still in extreme or severe drought conditions, and the recent fires across New Mexico and the southwest indicate the severity of drought conditions. This Resolution bans the sale and use of aerial fireworks [spinners, helicopters, bottle rockets, roman candles, and ground audible devices such as firecrackers], and bans the use of all fireworks on lands covered wholly or partially by brush, trees or native grasses. The State Forester concurs with the Resolution. The Resolution will cover the City through the upcoming 4th of July holiday, and the Fire Department will be enforcing the ban with the cooperation of the Police Department. There will be a public fireworks display on July 4th at dusk at the Santa Fe High School. Mayor Delgado commented that it is suspected that yesterday's fire in Albuquerque's Bosque was ignited by fireworks. He urged the public to attend the fireworks display at Santa Fe High School.

Public Hearing

_____ **There was no one speaking for or against the Resolution.**

The Public Hearing was closed

It was moved by Councilor Lopez, seconded by Councilor Heldmeyer, that the Resolution be approved.

Discussion: Councilor Wurzbarger asked if sparklers and the "snake things" are considered to be fireworks. Chief Sperling said they are permissible for sale.

The motion carried on the following roll call vote:

For: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzbarger.

Against: None.

- 5) CONSIDERATION OF BILL NO. 2003-10: ADOPTION OF ORDINANCE NO. 2003-17.**
Case ZA-2003-02. Acequia Bonita Subdivision Rezoning.
Richard Gorman, agent for Don Gorman and Suzanne Jacquez Requests Rezoning for approximately 1.074 Acres Located at the Mid-Block of the East Side of Harrison Road Between Agua Fria and Cerrillos Road from the Current Zoning of R-2 (Single Family Residential, 2 Dwellings per acre) to R-5, R-6 or R-7

(Single Family Residential, 7 Dwellings per acre). The Application Includes a Request for Development Plan Approval. The Property is Designated on the Future Land Use Diagram of the 1999 General Plan as "Low Density Residential" (3 to 7 Dwellings Per Acre). (Ron Quarles) (Postponed at May 14, 2003 City Council Meeting)

Mr. Greg Smith said the City Council held a public hearing on this issue previously. The item was postponed to allow review of notification requirements and to allow the applicant to consider revising the Development Plan which goes with his R-7 Zoning application. Mr. Smith said there had been some minor confusion with regard to the notification, but proper notice was mailed to all owners within the appropriate radius which is above and beyond the minimum code requirements as planning staff discovered in researching the state and local requirements with the City Attorney's office. Mr. Smith said the Council may properly consider R-7, R-6 or R-5 zoning designations if the Council feels it is appropriate to do so.

Mr. Smith said the applicant has revised the site plan to eliminate one dwelling unit from his proposed project and that eliminates one driveway from the Harrison Road frontage. The project still requires R-7 zoning to qualify under the City's Zoning Regulations for the eight units currently proposed on the property. As previously noted, this is a type A affordable housing subdivision. The applicant has testified that fewer than eight units would cause him to have to abandon that classification as an affordable housing subdivision.

Mr. Smith said staff continues to recommend approval of the project with the eight dwelling units as proposed this evening, and subject to the conditions which are included in the draft bill from the previous hearing, and subject to the Memorandum from the City Traffic Engineer dated June 10, 2003 [page 102 of the Council packet].

Mr. Smith said, with regard to questions in the previous hearing about traffic calming, staff believes the neighborhood would qualify for a comprehensive traffic calming project with funding available in the capital budget sometime in FY 2003-2005.

Mr. Smith said the proposed project does slightly exceed minimum code requirements for on site and off site parking in the R-7 district, and the road configuration does accommodate the required 2 parking spaces on-site for each dwelling unit and ½ unassigned guest parking space.

Mayor Delgado said the public hearing portion of this request was completed at the previous meeting. He will allow Richard Gorman to speak as an agent for Don Gorman, and he will permit one person in opposition to come forward. Councilor Ortiz said he understood the public hearing was closed, but the decision is up to the Mayor as to whether or not to reopen the public hearing on this issue.

Mayor Delgado asked Mr. Thompson if the public hearing was closed. Mr. Thompson said the public hearing was completed under this particular topic at the last City Council meeting, and there is no requirement to reopen it. The City Council can decide if it wants to hear additional testimony.

Mayor Delgado said in the past when a public hearing was closed, it was never reopened, and he was in error to allow Mr. Gorman to come up at this time. In the past when a public hearing was closed we have not opened it to anyone.

Councilor Heldmeyer said then are we assuming we are making the decision on the information presented at the previous meeting. Mayor Delgado said that is correct.

Councilor Pfeffer asked if the Council can question either the agent or someone from the neighborhood. Mayor Delgado said this can be done, whether the agent, someone in opposition or staff.

Councilor Wurzbarger would like clarification of the Mayor's answer to Councilor Heldmeyer's question. She understands that the Council will be making a decision based on the information which was received at the previous meeting, but the developments which have occurred since and are reflected in the staff report. Mayor Delgado said that is fine, and instructed the Council to refer to the materials in the packet including the minutes.

It was moved by Councilor Lopez, seconded by Councilor Wurzbarger, that the Council approve the project with all of staff's conditions, and the applicant's agreement to reduce the number of units by one and eliminate one of the driveways.

POINT OF CLARIFICATION: Councilor Heldmeyer said the new information says that it is being noticed for R-5, R-6 or R-7, and asked Councilor Lopez on which of those is she making a motion. Councilor Lopez said she believes the R-7 is necessary, even though there is a reduction. She asked Mr. Smith to clarify whether she made the correct motion for the amended project.

Mr. Smith said Councilor Lopez is correct that R-7 is necessary to support eight dwelling units.

RESTATEMENT OF THE MAIN MOTION: It was moved by Councilor Lopez, seconded by Councilor Wurzbarger, that the Council approve the project with R-7 Zoning, with all of staff's conditions, and with the applicant's agreement to reduce the number of units by one and eliminate one of the driveways.

DISCUSSION: Councilor Chavez said not much has changed between the last time this was heard and now. It is one unit less, but it doesn't change the density and is not factoring in the existing conditions, and there were options for R-5, R-6 or R-7. We aren't considering any of the other options, which he feels is unfair to the existing residents of Harrison Road. He would vote against the motion as it now stands.

Councilor Coss said some of the letters to the editor and comments he has received, say the City needs to do this as proposed because we need more affordable housing. He said given the water and land situations, we can't accomplish this by just building more and more. We need to look at the site specific situation in considering these proposals. This is a case of taking the general plan's suggestion of 3, and now we have gone to 8 in the name of affordable housing. He said the understanding after the public hearing was that there would be discussion between staff and the applicant, because the applicant didn't want the approval with the conditions. He asked Mr. Smith if any conditions changed.

Mr. Smith said there have not been substantial changes in the conditions of approval. The Memo from the Traffic Engineer discusses specifically allocating impact fees from this and other projects to the road extension on Rufina Street, but no other specific conditions are included, based on a clarification from Councilor Lopez as to whether or not the motion does include the T shaped driveway configuration which was discussed at the previous meeting.

Councilor Coss asked if this project applied for a subsidy from the City under the affordable housing program to help with infrastructure. Mr. Smith understands an application was filed and was denied. Councilor Coss asked Richard or Don Gorman if they know.

Richard Gorman, representing the applicant was sworn. Mr. Gorman said an application was made, but he has no idea on the status of that application. Mr. Gorman said the applicant is in agreement with all of the conditions as recommended. He asked the Council to reflect on Condition #3 with regard to the T-shape turnaround. The applicant can live with that, but that configuration will significantly reduce parking, as opposed to the plan submitted to the Council which maximizes parking. He said if the Council eliminates Condition #3, parking can be maximized on the project.

Councilor Coss asked if subsidy for infrastructure or flexibility on impact fees would make a difference to the applicant on the project.

Don Gorman, the applicant was sworn. Mr. Gorman said he submitted an application for infrastructure for affordable housing which will only contribute directly toward affordable housing infrastructure, and that amount has been incorporated into his pro forma of the project which yields an 8.5% rate of return. He commented it is risky to

take anything under 10%. The R-5 – 5 affordable units and one lower market unit – rate of return would be 2.44% which would be a loss, and the R-6 would be a loss as well. He said under R-7, by reducing one unit, he was able to make the project viable, and although that reduced the rate of return to 8.5%, he is willing to proceed.

Councilor Coss asked what happens to the project if the City subsidy to the project isn't approved. Mr. Don Gorman said it would be questionable. One of the other things which impacts this project is obtaining approval to do construction concurrent with the Maes Road Stormsewer Project which will help offset some of the costs of repaving the road which will be torn-up. This wasn't factored in, but could be an element of the project.

Councilor Coss said he heard these homes would be for teachers, firefighters and other people we would like to keep in Santa Fe. He understands that under Type A, anyone can purchase those homes, and wants to know what programs are in place to ensure that, for example, 8 teachers get into the 8 houses.

Mr. Don Gorman said, as proposed, there will be six affordable units, Type A housing project, and two will be lower market houses which can be sold to anyone at a higher price. The affordable units will be available to anyone who qualifies through Home Wise and through the Teacher Program with which he is working to market these homes. He said he has to pay real estate commissions on the two lower market houses but not on the affordable houses.

Councilor Coss asked if there will be a formal agreement with Home Wise, the Santa Fe Public Schools or the Community Housing Trust. Mr. Gorman said there will be a HOP agreement which will commit him to sell the six homes to qualified applicants.

Councilor Heldmeyer said there is some mention in the Staff Report about traffic calming, and asked Mr. Nitzel if this project will be making any financial contribution to that traffic calming. Mr. Nitzel said he believes the applicant has committed to put speed humps or similar traffic calming devices along the frontage of their property. Mr. Gorman said this is correct. Councilor Heldmeyer asked if this is required as a condition of approval. Mr. Nitzel said that it is.

Councilor Heldmeyer asked Mr. Gorman to explain where the second parking place for Lots 4 and 7 are located. Mr. Richard Gorman said Lot 4 is one of the largest lots because of the easement that lies there. There is a bend in the driveway which leads to a side entry garage, and the 2nd parking space would be directly underneath the easement. The configuration for Lot 7 is exactly like the site plan which was submitted to the City.

Councilor Heldmeyer said then the two parking spaces are one behind the other. Mr. Richard Gorman demonstrated these on the site plan. [Mr. Gorman was away from the

microphone.]

Councilor Heldmeyer said on Lot 7, it appears that the gravel parking goes across the Acequia Madre. Mr. Don Gorman said it will not because that lot is actually wider than Lots 1 and 2, and that same sketch is applicable but Lots 7 and 8 are actually wider than Lots 1 and 2. Mr. Richard Gorman said they might have to change the skew a little bit.

Councilor Heldmeyer said this really is “shoe-horning.” She asked the applicant if he is saying that the T parking in Councilor Lopez’s motion is something he doesn’t want to do, can’t do. Mr. Richard Gorman said that is correct. The way the T would work [on the site plan] is the garage would be at the front area, so the car would come in and would have to back up and go back out. The problem with that is virtually all the spaces require that maneuver, eliminates all the extra parking and is problematic to the applicant, although they can accept that. There is a total of 32 spaces for this project and it would be a mistake to eliminate the additional parking.

Councilor Heldmeyer asked how much parking space is eliminated by doing T-parking. Mr. Richard Gorman said, although a design hasn’t been done for it, he believes it reduces parking to one space per lot at the garage. You need your neighbor’s space to maneuver – the way those work in Tierra Contenta.

Councilor Heldmeyer said if the parking is reduced to one space then you are in violation of the law. Mr. Richard Gorman said no, because this is an R-7 and whatever the Council approves as the development plan is what’s approved.

Councilor Ortiz asked Mr. Gorman if his profit margin for R-6 is the same as R-7. Mr. Gorman said it is not, and it is between R-5 and R-7 and he didn’t entertain that because it wouldn’t be profitable. He said because he is committed to providing affordable housing he is willing to do the project at an 8.5% rate of return, but less than that would be risky and not feasible.

Councilor Ortiz said whatever the Council decides, the neighbors will be upset and don’t want anything to happen on the property. Mr. Don Gorman said he is sure the neighbors would like it to remain vacant.

Councilor Ortiz asked if the Council makes a change to the density from R-2 to R-5 or R-6, if it is Mr. Gorman’s testimony that he would not do the project as it is being proposed. Mr. Don Gorman said that is correct.

Councilor Pfeffer asked how does this in terms of lot size, traffic access, etc., compare to the typical development in Tierra Contenta. Mr. Smith said there are a wide range of development types and lot sizes in Tierra Contenta, the majority of which are similar in

the range of 4,000 to 7,000 sq. ft. to this project. Several of the Phase 1A projects in Tierra Contenta were built with streets which were not wide enough to allow parking on either side, but many of the recent subdivisions are wide enough to provide parking on one side only as is the case in this project.

Councilor Pfeffer asked John Nitzel if cars backing onto the street is fairly typical of residential neighborhoods, whether affordable or not. Mr. Nitzel said this accurate. Councilor Pfeffer asked if this has proved to be extremely hazardous even on some of the minor arterials. Mr. Nitzel said there hasn't been a disproportionate accident frequency, and hasn't been a problem of which he is aware.

Councilor Pfeffer said the Council exempted affordable housing from water budget considerations to provide an advantage to the developer. We do other things, such as curb cuts and other considerations in Tierra Contenta to encourage affordable development. We should be encouraging this kind of affordable development – 6 affordable homes.

Councilor Chavez said this can't be compared to Tierra Contenta, because Tierra Contenta was a master plan, planned residential community. He said this is because Harrison Road is a straight shot from Cerrillos to Agua Fria and nothing in the middle to slow that traffic. Traffic calming may help, but it won't solve the problems. It is not fair to characterize the existing neighbors as not wanting anything built there. The adjoining property owners would accept something less than what is being proposed, because they have no profit motive, but are concerned about guaranteeing their quality of life and safeguarding their property values. We need to balance the need of business for a profit and safeguarding the quality of life for the entire area now and in the future.

Councilor Heldmeyer said there are a number of different affordable housing programs, some of which focus on building new housing. That is only part of the affordable housing puzzle. Another part is helping people to retain the houses they have. In this neighborhood, the most affordable way to have a house is to be in the house already or inherit it from your parents and not have to go out and buy a house. This neighborhood is relatively affordable because it has historically been overlooked, and in part because it is close to industrial areas, and it has a road down which people drive very fast. There is an obligation to people already living there in affordable housing to allow them to live in their homes with a modicum of health and safety. She understands there has to be a certain level of density to make things affordable, but it is inappropriate to put in every home that can be "crammed in" when it creates a more unsafe situation. We have to weigh the affordability needs of the current residents vs. the affordability needs of those who may move to these homes in the future. She hopes something can be done on this land that is more safe, because that is the issue.

Responding to Councilor Bushee, Mr. Smith said under R-6 zoning there would be 6.44 dwelling units, and with the bonus, 7.48 dwelling units, rounded off to a maximum of 7

dwelling units. R-5 would yield 6 units with the maximum density bonus. Councilor Bushee said then R-7 would give them 9 with the density bonus, and they are agreeing to 8 units. Mr. Smith said the R-7 base density would round-off to 8 dwelling units with no bonus.

Councilor Bushee said previously the Council was trying to strike a balance between R-5 and R-6. She got no indication that the neighborhood wanted no development. We are really talking the difference of 1-2 houses less than that proposed, and in this instance, given the issues around traffic, the density matters.

Councilor Wurzbarger asked for a staff opinion on the issue of safety which is being described as though it is an absolute. She presumes that when staff makes a recommendation to the Council, staff is not giving the Council what staff considers to be an unsafe condition, although she is hearing descriptions of this project as unsafe.

Mr. Nitzel said staff was asked to comment on the traffic volume and speeds. He said there are about 800 cars per day on Harrison. The total buildup of Harrison – another 85 units maximum – would double the traffic up to 2,000 cars per day. In the peak hours – 4:00 p.m. to 5:00 p.m. – there would be 200 cars an hour, or 3 cars a minute. This means that going in and out of a driveway there would be quite a bit of time to back up. The problem is the speed, which could be reduced through traffic calming to 25-28 mph. He believes traffic calming would mitigate the problem.

Councilor Chavez said the Planning Commission has approved another 15 lot subdivision on the other side of Harrison Road, and Mr. Nitzel just informed us that there will be 95 units when Harrison Road is all built out. We need to take this into consideration.

Councilor Chavez said he would like to provide an opportunity for the residents to respond, and if permissible he would like to ask them a question. He asked, in the time the residents have been dealing with this and other developments which will come after this, what the residents would be willing to accept on that property. He asked the neighbors to choose one person to respond to this question.

Pablo Sanchez, a resident of the neighborhood was sworn.

Mayor Delgado asked if Mr. Sanchez is the one who will be speaking for the adjoining neighbors. [Audience agreed.]

Responding to Councilor Chavez's question, Mr. Sanchez said most of the neighborhood would want to keep the property at R-2, but believes the neighbors would accept four units on that lot. The neighborhood supported the affordable housing unit in La Cienegitas because it was done correctly.

Councilor Chavez said the Council is considering R-5, R-6 or R-7. Mr. Sanchez understands the general plan provides R-3 to R-7 for this property. The way the lot is configured, 3 houses would be perfect because it is split by 3 different easements. The neighborhood is willing to compromise, but 6, 7 or 8 is way too many units.

Councilor Ortiz said most of the neighbors back up to La Cienegitas, and asked Mr. Sanchez if he is saying that those neighbors are okay with the proposed density in La Cienegitas. Mr. Sanchez all of the neighbors don't back on La Cienegitas, some have fields behind them, and aren't impacted by that subdivision.

Councilor Ortiz said he understood Mr. Sanchez to say that the neighbors would be okay with the same kind of density as La Cienegita because that was done correctly. Mr. Sanchez said this is correct, although it has its parking problems. Most of the neighboring lots are fairly large – ½ to ¾ acre.

Councilor Ortiz wants to be sensitive to the neighborhood with regard to safety and traffic issues. The issue before the Council is whether or not this is the kind of project we want to support or do we want to go with the status quo – keep the density at the same level. He believes the parking configuration for these units is tight, and he would prefer we consider an R-6 designation that would still permit affordable housing. But, by adopting that, we aren't pleasing the neighborhood, who want to keep it at R-2, but will go to R-3, nor the developer who has indicated he won't do a project unless it is R-7. Councilor Ortiz said to provide affordable housing it will be necessary to make these kinds of hard decisions.

FRIENDLY AMENDMENT: Councilor Ortiz would like to approve the project with R-6 instead of at R-7 as previously moved. **The motion was friendly to the maker and second.**

CONTINUATION OF DISCUSSION: Councilor Coss said then at R-6 there could be 7 units with the affordable housing bonus, but if he chose not to he could build 6 houses which wouldn't necessarily be affordable.

Councilor Heldmeyer said one of the conditions of approval is that this would be a Type A development.

Councilor Wurzburger said she wouldn't be supportive of this project at R-6 or R-7 if it weren't affordable housing.

Councilor Bushee said she thought the discussion at the previous Council meeting was to aim for R-5 which would be six units. There are many affordable housing developments which have been done at R-5 zoning – Kachina Ridge, La Cienegita.

Councilor Bushee asked if the neighborhood could live with R-5 zoning. Mr. Sanchez said it would be difficult for him to answer because that would mean 6 affordable houses, and although that might be an acceptable compromise he can't speak for his neighbors. Councilor Bushee doesn't know how many would be affordable. Mr. Sanchez reiterated that there is a real problem with speeding on Harrison – over 60 mph. It would be better if the cars were parked off the street.

Councilor Coss asked Mr. Nitzel what percentile is the 40 mph speed. Mr. Nitzel said 40 mph is the 85th percentile speed, which means that 15% of the cars are going faster than 40 mph. He doesn't know the maximum speed.

Mr. Sanchez said a speed survey was done at the end of the street where people are beginning to slow down and not in the middle where people are speeding, and he doesn't believe the survey was very accurate.

Councilor Coss said it appears we are balancing affordable housing versus safety, and he hears references to the speed. He asked if the neighborhood would feel different about the development if the street was traffic calmed and the 85th percentile was 25 mph. Mr. Sanchez believes it would be more acceptable, but it may be years before there is traffic calming, pointing out the lengthy neighborhood process to get traffic calming.

Mayor Delgado said there has been an amendment to the original motion to approve an R-6, and he asked Mr. Gorman if they are willing to go in that direction.

Mr. Richard Gorman said he understands, and wants to be sure, that under R-6 they won't be required to do the .5 additional parking, so the street parking could be eliminated which would be a savings to the project. However, R-6 with the T-parking would be a bad situation.

Mr. Don Gorman said with these conditions he could make this a viable project – by being able to offset the street improvements, the widening of the road and the easement will make larger lots and he won't have the expense of building the parking lane. This savings would help offset the cost of losing one unit.

Mayor Delgado asked Mr. Smith if staff agrees with Mr. Richard Gorman's remarks about the parking under R-6. Mr. Smith said the Council faces a choice of moving from R-7 to R-6. The R-7 automatically requires approval of a development plan by the Council, and subsequent approval of a subdivision plat by the Planning Commission at a future hearing. The zoning regulations do not automatically require approval of a development plan with an R-6 District. The Council has established the precedent in past cases of adopting special conditions of approval with regard to development plans, etc. The Planning and Traffic Engineering staff would be concerned about some type of

appropriate method of accounting for non-assigned guest parking. It appears that the most effective of the two options would be curbside parking. It is likely staff would recommend that the Planning Commission adopt a road widening to require curbside parking when the subdivision went to the Planning Commission for approval if the Council does approve R-6.

Councilor Heldmeyer said the big issue is backing out on a road where a lot of people are traveling over 42 mph.

FRIENDLY AMENDMENT: Councilor Heldmeyer would like to provide if R-6 is approved that any design of the development plan will provide some way for people to front out of their property onto Harrison Road, rather than backing out. **The amendment was not friendly to the maker**

Mr. Don Gorman said R-6 would require him to do a parking lane regardless. He will not accept R-6 because it is not economically feasible. This project is viable at R-7, at a minimal, marginal 8.5% rate of return. Anything less than that is unacceptable and the project can't be done at the risk of losing money.

Councilor Heldmeyer said Councilor Wurzbarger would like to know if it is physically possible to get an R-7 zoning and set it up in a way that people can turn around and go out frontward. Mr. Richard Gorman said this can be done by eliminating parking, pointing out that Mr. Sanchez just said he doesn't want on-street parking.

Councilor Bushee asked where Harrison Road is on the Traffic Calming List for the City, and if the applicant will be required to contribute toward the cost of traffic calming. Mr. Nitzel said both developments on Harrison are providing traffic calming along their frontage, and that would go forward irrespective of the status of public funding. Funds have been proposed in the upcoming CIP to cover this project. Councilor Bushee asked if the contribution by the applicant sufficient to take care of their section of Harrison Road. Mr. Nitzel said it wouldn't take care of the entire road, but would slow traffic along the frontage of this development.

Councilor Wurzbarger asked what traffic calming in front of the development will do for the safety of people backing onto the road. We aren't addressing the speeding problem on the entire Harrison Road. Mr. Nitzel said it would be a pretty good mitigation of the speeds along the frontage and would be comparable to other streets such as Acequia Madre and others that have been mentioned. The traffic on Harrison is less than on those other streets. He said there should be 20 seconds for someone to back onto a street which is quite a bit of time, and if the speeds are reduced on the frontage there will be a fairly safe situation.

Mayor Delgado said the motion is to approve an R-6, and he's hearing from the

developer that is not acceptable. Mr. Don Gorman said that is correct.

Mr. Smith asked if the motion is intended to include any conditions of approval.

Councilor Lopez said her intent is to include those. She is confused because she thought Mr. Richard Gorman had said he agreed to the R-6 because they could do 7 units.

Mr. Richard Gorman said they said R-6 would work because they thought they wouldn't have to do the parking lane. However, Mr. Smith said under R-6 the parking lane would still be recommended by staff. There can't be further reductions of units with the same amount of improvements.

Mayor Delgado asked Mr. Smith if he said staff would still push for the parking lane, or if the applicant is required to build the parking lane by code. Mr. Smith said, absent any separate action as part of the zoning ordinance by the Council, the final decision on the parking lane will be up to the Planning Commission when it reviews the subdivision plat.

Mayor Delgado asked if that would be staff's position to the Planning Commission. Mr. Smith said staff is likely to recommend that the parking lane be provided. It is possible that when the project goes to the Planning Commission that the developer will have some alternative means of addressing guest parking which would take the place of a parking lane, and that might change staff's recommendation.

Councilor Ortiz said the original motion was to approve 8 units with 6 affordable, 2 market. When we down zone to 7 units the developer is still getting 2 market units and 5 affordable. Now, the developer is saying that the parking lane is not going to be feasible because the marginal difference of the affordable unit being lost is the coverage for the parking lane. If the profit margin is so small, he believes the profit margin on the affordable houses is even smaller, and that the developer is making this up with the market houses.

Mr. Richard Gorman said they won't be able to sell the market houses anywhere near \$200,000, and to sell above the Type A price of \$160,000 there has to be a bigger space. He said there are so few units that when you remove one unit it's not profitable, pointing out that this isn't a public project and the applicant is doing this to make money. This would put the profit margin at about 6%.

Councilor Ortiz said the neighborhood concerns will remain whatever number of houses are built. Harrison Road is in a transition, unfortunately. He is disappointed that the developer can't built at R-6, and believes that R-7 is too much and he will support R-6.

Mr. Smith said he wants the Council to understand that at R-6, the Code does not

require curbside parking or additional parking for single family dwellings.

Mayor Delgado said then that could be a condition, which Mr. Smith believes can be imposed by the Planning Commission. Councilor Ortiz pointed out that condition can be imposed by the Council because this is an upzoning.

Mr. Smith said the Council has established the precedent of addition requirements on zoning cases in the past. If the Council does not make such a mandate tonight, then it will be up to the Planning Commission to decide whether or not require a street widening to provide parking.

Councilor Wurzbarger said if the Planning Commission decides to recommend the parking, then this can come back to the Council. She spoke in favor of the motion, as is, in the hopes that the Planning Commission will take this evening's vote by the Council into consideration in their deliberations.

Mr. Smith said previously the Council has added conditions that there would or would not be curbside parking allowed. The Council isn't required by code to do that, and does not have specific authority to do that. However, there is a fairly well established precedent that the Council might want to adopt those conditions. He suggested checking with legal staff on this issue.

Councilor Wurzbarger asked Mr. Thompson his thoughts. Mr. Thompson said the precedent has been set in the past, although he wasn't present for that. It seems, to him, that conditions he has seen placed by the Council on all of the developments he's seen, does seem a common practice. He doesn't know if the Council has the information to make that decision.

FRIENDLY AMENDMENT: Councilor Wurzbarger would like the motion to include a condition that curbside parking would not be required at R-6. **The amendment was friendly to the maker and the second.**

Councilor Coss said we are "stuck on the horns of a dilemma." He said we are talking about 5-6-7-8 houses tonight, but the neighbors are looking at a total of 95 houses with driveways or access to Harrison Road.

Mr. Smith said if the current development occurs throughout the neighborhood, staff has projected there will eventually be 95 dwelling units. The analysis from the Traffic Staff was that while the result would have incremental marginal affects on the intersections at either end of Harrison Road, there would not be any other significant impact on the capacity of the Road and it would be adequate to handle the traffic when the speed issues are addressed.

Councilor Coss said then we would have 95 more families there eventually. Mr. Smith said there will be approximately 95 families when and if all of the lots were rezoned to the maximum density under the plan.

Councilor Coss doesn't see much quality of life with the proposed density, and with increased units the street becomes even more dangerous. If the Council approves this request, then we need to move Harrison Road to the front of the line for traffic calming to address this situation as quickly as possible. Councilor Heldmeyer said the Traffic Calming Task Force needs to discuss this, because San Mateo and Galisteo which are failing badly and where a large infill development has been approved.

RECONSIDERATION OF FRIENDLY AMENDMENT: Councilor Heldmeyer asked Councilor Lopez to reconsider the friendly amendment that all units must be allowed to front out on Harrison Road. **The amendment was not friendly to the maker,**

Councilor Lopez wants to see what kind of subdivision plan will be submitted by the developer, given the limitations, and believes there will be a different schematic.

It was moved by Councilor Heldmeyer, seconded by Councilor Chavez, that the motion be amended to require that all units must allow cars to pull forward onto Harrison Road, rather than back-out onto Harrison Road.

Discussion: Councilor Ortiz asked how the City can ensure that the applicant is complying with that condition. With the exception of a turnaround, or any other kind of long driveway, how can the developer comply with that condition.

Councilor Heldmeyer said there can be a T, and any number of other things that can be done.

Councilor Ortiz said then a T is the most expeditious and less costly. Mr. Richard Gorman said that configuration would mean a loss of parking, and they will accept that condition, but it means less parking.

Councilor Heldmeyer said the guest parking has been eliminated. Mr. Richard Gorman said the effect would be to eliminate more parking. Councilor Heldmeyer said anything else on the plan is something that is required by law, and nothing else can be eliminated.

The motion was defeated on the following roll call vote:

For: Councilor Bushee, Councilor Chavez, Councilor Coss, and Councilor Heldmeyer.

Against: Councilor Lopez, Councilor Ortiz, Councilor Pfeffer, and Councilor Wurzburger.

The result of the vote was a tie vote, with the Mayor voting no to defeat the motion.

FRIENDLY AMENDMENT: Councilor Chavez said if the motion is passed, he wants to be sure that there is follow-up on Councilor Coss's suggested to place Harrison Road on the top of the list for traffic calming, and that be done as soon as possible. **The amendment was not friendly to the maker.**

Councilor Lopez believes there is a strong process in the community for traffic calming and this process should compete with the other projects in town.

RESTATEMENT OF THE MAIN MOTION: It was moved by Councilor Lopez, seconded by Councilor Wurzburger, that the Council approve the project with R-6 Zoning, with all of staff's conditions, and with the applicant's agreement to reduce the number of units by one and eliminate one of the driveways, and that curbside parking is not required for this project.

The motion was passed on the following roll call vote:

For: Councilor Lopez, Councilor Ortiz, Councilor Pfeffer, and Councilor Wurzburger.

Against: Councilor Bushee, Councilor Chavez, Councilor Coss, and Councilor Heldmeyer

The result of the vote was a tie vote, with the Mayor voting yes to pass the motion.

Councilor Bushee, explaining her no vote, said Type A affordable housing units currently cost \$160,000, Type B about \$180,00. This is already a Type B affordable housing development, and not much more affordability is being gained in the neighborhood. What you are gaining is density to exacerbate a traffic problem.

Councilor Heldmeyer, explaining her no vote, said she could have compromised on more density if things could be done to guarantee safety and that wasn't acceptable.

Mayor Delgado, explaining his yes vote, said people need a place to live in this community. There is a constant cry for that, and he's heard this Governing Body many times talking about searching out and finding affordable housing.

[Short Recess]

- 6) **Case #AB-2002-03. 127 Duran Street Appeal.**
Martha Baca and Paul Pacheco Appeal the Decision of the Board of Adjustment's November 20, 2002 Denial of an Appeal of an Administrative Official's Determination Pertaining to Applicable Building Setbacks and the Issuance of Permit No. 02-2080 Re: Board of Adjustment Case No. AB-2002-02. The Property is Located at 127 Duran Street and is Zoned RM-2 (Multi-Family Residential, 29 Dwelling Units Per Acre). (Greg Smith) (Postponed at June 11, 2003 City Council Meeting) (PUBLIC HEARING CLOSED)

This item was postponed to the July 9, 2003, City Council Meeting.

- 6) **CONSIDERATION OF BILL NO. 2003-14:
ADOPTION OF ORDINANCE NO. 2003-18. (Councilor Heldmeyer, Councilor Wurzbarger and Councilor Chavez)
An Ordinance Creating a New Section 14-5.2(K) SFCC 1987
Requiring Review of an Historic Compound Plan by the
Historic Design Review Board. (James Hewat)**

Proposed Amendments to Bill No. 2003-14, are incorporated herewith to these minutes as Exhibit "4."

City of Santa Fe Fiscal Impact Report No. 815, is incorporated herewith to these minutes as Exhibit "5."

Mr. Hewatt said this draft ordinance has gone through a number of public hearings and staff has worked with the H-Board, Councilors and interested citizens over the past 6 months. He believes this represents a good approach to identifying, evaluating and protecting historic compounds. It is estimated there are 200 historic compounds in the Historic District. The ordinance seeks to do this in a way that is reasonable to the public and gives the City a mechanism to obtain information it has wanted for a long time. This also provides protection.

Mr. Hewat said the amendments handed out this evening [Exhibit "4"] provide a mechanism to do a survey which is critical in enforcing the ordinance and protecting the compounds. This is the first time such a large scale survey is proposed to be done since the early 1980s. Staff has tried to address the concerns with regard to standards and development of standards to review the activities that occur in these compounds. The standards will evolve from the continuing survey of these properties – tighter

standards that the City will be able to enforce.

Public Hearing

Those speaking against the Ordinance

There was no one speaking against the Ordinance.

Those speaking in favor of the Ordinance

Dina Aqualina, 327 Sanchez, on behalf of the H-Board, said a lot of work has gone into this Ordinance. Ms. Aqualina is the President of the Historic Neighborhood Association which appreciates the H-Board for standing up for our neighborhoods. She said at this time we are losing Plaza Chamisal which is a gem of a compound and believes it is too late to save that compound, but not too late to save others. She said there is no resemblance of that Compound to its former self – all of the charm, soul and all of the little elements that were there are gone. This ordinance would protect some of the ambiance, open space and landscaping in the compounds. She urged passage of this Ordinance to give protection to the neighborhoods.

The Public Hearing was closed

It was moved by Councilor Heldmeyer, seconded by Councilor Chavez, that Ordinance No. 2003-18 with the amendments that were passed out this evening be approved.

Discussion: Councilor Heldmeyer said the H-Board has worked very hard on this Ordinance. She thanked Councilor Wurzbarger, the co-sponsor, who has spent a great deal of time on the language of the Ordinance, as well as the staff, James Hewat, Jeanne Price, Bruce Thompson, Anne Lovely and Sandra Aguilar. Everyone worked to get something which is clear, enforceable and met the direction given by this Council to develop an ordinance which would help the City deal with compounds as a holistic entity – buildings and other elements in relationship to each other.

FRIENDLY AMENDMENT: Councilor Pfeffer presumes Councilor Heldmeyer's motion includes the proposed amendments. Councilor Heldmeyer said it does. He would like additional language on Page 6 of the Ordinance, Line 5, as follows before Section 2: "This Section 14-5.2(K) shall be enforced by administrative procedures adopted by the Governing Body." Councilor Heldmeyer asked for an explanation. Councilor Pfeffer said there are a great deal of specifics mixed with generalities, there are a number of definitions missing and a lot of things which haven't been ironed out and administrative procedures might be a way to do those things. Councilor Heldmeyer said many of the reasons things appear to be missing is that in many cases the general definitions are

being used that are used in the general Historic Ordinance. The definitions in the Ordinance are those which are specific to the Compound Ordinance which is a subset of the Historic Ordinance. **The motion was not friendly to the maker.**

Councilor Pfeffer takes exception to the characterization of the Ordinance as clear and enforceable, admitting that a lot of people worked very hard on the Ordinance. Councilor Pfeffer gave the following examples of his concerns:

Ordinance Page 3, (a) provides, "For any proposed substantive change to an historic compound, the property owner or representative shall submit an existing conditions assessment for review and approval by the Board. Under definitions, Page 6, Line 22, SUBSTANTIVE CHANGE, provides, "As used in §14-5.2, change to a property in the Historic Districts or landmark property outside the Historic Districts that requires review and approval by the Historic Design Review Board." He said it is a tautology: What's a substantive change? That which requires review. What requires review? That which is a substantive change. He doesn't believe this is enforceable.

The second is the use of the word "spatial." One portion provides that, "...Historic compounds shall be recognized as historic places and that the identifiable historic, physical, and spatial elements comprising them shall be preserved." There are repeated references to "spatial," but there is no definition of "spatial" in the Ordinance.

There are references to §14-5.2(D)(2) or (D)(2)(e), etc., which aren't included in this packet, and weren't in previous packets. He doesn't know what he's voting on in referencing those things.

Ordinance Page 3, Compound Plans, provides, "... (c) An existing conditions assessment and/or historic compound plan shall not be reviewed until all exhibits, as specified by city policy, have been submitted." There is no City policy here that he can read, unless it is in another part of the ordinance not presented in the packet.

Ordinance Page 3, General, provides, "... (i) If proposed changes will significantly alter the historic, physical, or spatial [none of which are defined] character of the historic compound as a whole, the application shall be denied." He presumes it is at the subjective discretion of City staff to determine what is spatial, what is physical, what is historic and what is "as a whole," and whether or not an application will be denied in the absence of studied administrative regulations that can be reviewed.

Councilor Pfeffer said he has other concerns. He asked staff, under the proposed

amendment for a survey, once the survey is done and the list of eligible historic compounds has been made, how does a compound which is not on the list, get on the list. Mr. Hewat said that list will be subject to amendment and that decision will be made by the City Council upon recommendation by the Historic Design Review Board.

Councilor Pfeffer said as an owner of a compound in the Historic District seeking a building permit who was sent for review to HDRB and the Board said the Compound should be on the list and so recommends. He asked if this is a way for a Compound to get on the list. Mr. Hewat said yes, and then it would go through the process, a public hearing would be held, then notification and then perhaps an appeal.

Councilor Pfeffer said, then the survey doesn't precisely define what is on the list and what isn't. The list is always open, obviously for some good reason. Just because a property isn't on the list doesn't mean the property has cleared the hurdle of being defined as being historic, which means that the Historic Design Review Board may, at its discretion, undefined by regulation other than what's vaguely in this ordinance, decide that a property has to be considered as historic and then go through the process of designation, which it, itself decides. Then it comes to us for public hearing and then these rules apply. Mr. Hewat said this is correct. The process is that a survey will proceed all of this, and a lot of the information from the survey will be used to define Compound A, for example. Compounds are very different and each will have its own special character, and defining, for instance, the spatial qualities of a compound will be done on an individual basis according to a certain criteria.

Councilor Pfeffer asked what is the criteria. Mr. Hewat said the criteria has not been completely developed, and part of the survey will provide the information to develop those criteria.

Councilor Pfeffer said on page 5, there is a requirement that, "...New construction shall be visually distinct from, but compatible with contributing, significant, or landmark architecture in the historic compound." However, the prior paragraph provides that, "...New construction shall use similar materials, building forms and stylistic elements as found in the historic compound." He said if it interrupts physical, or character or spatial elements it is to be denied. He asked how can you do anything that is visually distinct when you are requiring it to be as visually similar as possible. Mr. Hewat said this has

been the standard in Santa Fe in the Code for almost 50 years, and a standard around the country and in the National Park Service standards.

Councilor Pfeffer asked how any new structure in a compound would not alter the spatial character if one assumes spatial means how the buildings relate to each other or the voids between the buildings. How can you do anything that doesn't alter that? Mr. Hewat said it is the degree to which the alteration is taking place. Councilor Pfeffer said

this isn't what the Ordinance says. Councilor Pfeffer said there are serious errors and serious mistakes in the Ordinance. He doesn't believe any of the comments made by the City Attorney the last time this was before the Council have been addressed in the ordinance. It needs work.

It was moved by Councilor Pfeffer, seconded by Councilor Ortiz, to postpone consideration of the Ordinance until City staff has addressed these issues.

DISCUSSION: Councilor Bushee understands that this ordinance has been around since the Plaza Chamisal vote. Mr. Hewat said about 6 months. Councilor Bushee asked Councilor Pfeffer if he attended any of the hearings or meetings scheduled by staff, to try to address his concerns. Councilor Pfeffer said he is surprised that after 6 months of review by people interested in this good cause that so many things have not been addressed that would enable the laws to be enforceable.

Councilor Bushee would have liked this ordinance prior to the Plaza Chamisal vote. She said insufficient information was provided at the time that vote was taken. This ordinance is in response to the kind of decision-making process used in that appeal. She believes this ordinance is needed now.

Ms. Vigil asked if there is a date specific for the postponement. Councilor said he would like a postponement to the meeting of August 25, 2003. Mayor Delgado asked Mr. Hewat to meet with Councilor Pfeffer as soon as possible to address his concerns.

The amendment failed to pass on the following roll call vote:

For:, Councilor Ortiz and Councilor Pfeffer.

Against: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, and Councilor Wurzbarger.

FRIENDLY AMENDMENT: Councilor Pfeffer asked Councilor Heldmeyer if she would accept a friendly amendment to add language on Page 6 of the Ordinance, Line 5, as follows before Section 2: "This Section 14-5.2(K) shall be enforced by administrative procedures adopted by the Governing Body." **The amendment was not friendly to the maker.**

Councilor Heldmeyer explained that many things Councilor Pfeffer is calling administrative procedures are things that are already defined in other parts of the code, and already have administrative procedures in place as part of the general H-Board process.

It was moved by Councilor Pfeffer, seconded by Councilor Lopez, that

additional language be added on Page 6 of the Ordinance, Line 5, as follows before Section 2: "This Section 14-5.2(K) shall be enforced by administrative procedures adopted by the Governing Body."

The amendment failed to pass on the following roll call vote:

For: Councilor Lopez, Councilor Ortiz and Councilor Pfeffer.

Against: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, and Councilor Wurzburger.

CONTINUATION OF DISCUSSION: Councilor Pfeffer expressed surprised that after all of the comments made that nothing has been done to change the ordinance to make it more enforceable. He believes this will fail on the first challenge and the City will be in a lawsuit because there are no applicable definitions in the ordinance and everything is arbitrary and capricious. He is also surprised that there is no regard in the ordinance, as written, for the keepers, the protectors and maintainers of the historic compounds who own them and live in them. There is a caveat which basically says that, "We are going to decide whether you can do anything with your property or not, without regard to what will happen to that historic property if the people who live there can't keep them up and use them for the way they need to be using them." He will vote No on the main motion. This is a good cause, but it is a bad law.

The motion passed on the following roll call vote:

For: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez and Councilor Wurzburger

Against: Councilor Ortiz and Councilor Pfeffer.

Explaining her yes vote, Councilor Bushee presumes the legal department reviewed the ordinance and all the changes. Mr. Thompson said the legal department has reviewed the ordinance.

Explaining his yes vote, Councilor Chavez asked the City Attorney if he feels there is any language in the ordinance which is arbitrary and capricious. Mr. Thompson said he will be defending the ordinance at some point and arguing that it is not arbitrary and capricious, which he believes is a defensible position. He said it is beyond his ability to say that no court would ever find it arbitrary and capricious. He believes it is a defensible ordinance.

Explaining her yes vote, Councilor Heldmeyer said going back to the Penn Central case, historic ordinances of various types have been found to be not arbitrary

and capricious and contain exactly the same kind of language found in this ordinance, much of which comes from the national prototype.

Explaining his no vote, Councilor Ortiz isn't surprised that this ordinance has been put together as it has been. His experience with the H-Board has been to shuffle as much responsibility and authority as possible to H-Board staff and to the H-Board itself. He sees holes in the ordinance and believes it can use more work.

[NOTE: At this time, Councilor Pfeffer said he needs to leave for Albuquerque because he has a 6:50 a.m. flight tomorrow morning to Washington, D.C., on City business. He asked Mayor Delgado for permission to pass out, and introduce a proposed ordinance change relating to the Rain Barrel Harvesting Program. Mayor Delgado gave his permission.]

Councilor Pfeffer said this is an "Ordinance Creating a New Section 25-2.10 SFCC 1987 Creating a Voucher Program for Water Conservation Methods Including a Rainwater Harvesting Barrel Program." He said other Councilors who have other ideas in terms of a voucher program should have some creative thoughts in this regard. The proposed Ordinance is incorporated herewith to these minutes as Exhibit "6."

[Councilor Pfeffer left the meeting at this time.]

**8) CONSIDERATION OF BILL NO. 2003-19: ADOPTION OF ORDINANCE NO. 2003-19. (Finance Committee)
An Ordinance Amending Section 22-10.7 SFCC 1987 Regarding Wastewater Sampling; Creating a New Section 22-13 SFCC 1987 Regarding Treated Effluent Management; Amending Exhibit A of Chapter 22 SFCC 1987 Regarding Sanitary Sewer Charges and Fees; and Repealing Section 25-6 SFCC 1987 Regarding Treated Effluent Management. (Dennis Gee)**

Mr. Gee said the Wastewater Management Division is seeking a rate increase so it can continue to cover its operating costs and have the ability to purchase future wastewater facilities to continue to meet EPA and NMED standards. The basic changes in the ordinance would change the monthly service charge from \$2.49 per month to \$4.32 per month, and the consumption charge would change from \$1.83 per month to \$2.50 per month. The ordinance change moves the treated effluent section in Chapter 25 to Chapter 22.

Public Hearing

There was no one speaking for or against the ordinance.

It was moved by Councilor Lopez, seconded by Councilor Chavez, that Ordinance No. 2003-19 be approved.

The motion carried on the following roll call vote:

**6) CONSIDERATION OF BILL NO. 2003-20;
ADOPTION OF ORDINANCE NO. 2003-20. (Finance
Committee)
An Ordinance Repealing Section 7-2.2A(6) and Creating a New
Section 7-2.2A(6) SFCC 1987 Regarding Building Permit Fees.
(Jim Salazar)**

- ② to promote and encourage the development of affordable housing stock by continuing to allow for administrative waiver of building permit fees for affordable housing units;
- ② promote and encourage the development of housing stock at or below the Santa Fe area median home price by minimizing the fee increase for projects at or below the median home price;
- ② minimize the impact for small projects such as additions and repairs by minimizing the fee increase for projects in this price range;
- ② establish reasonable, reliable and acceptable methods for determining construction valuation based on adopted standards established by the industry;
- ② establish methodology for the assessment of fees that is simpler and consistent

- with the practices of other communities in the region including Albuquerque and Las Cruces; and
- ② Reflect actual market cost increases.

Public Hearing

There was no one speaking for or against the ordinance.

The Public Hearing was closed

Councilor Bushee asked Mr. Romero what percentage of the increased building permit fees will go back into the Planning & Land Use Division. Mr. Romero said the fees generated currently are approximately \$1.5 million annually, and it costs \$4.5 million to operate the Planning & Land Use Department. Therefore, the fees aren't directly going to Planning & Land Use, but the General Fund is subsidizing Planning & Land Use.

Councilor Bushee said if this is going to raise \$1.2 million, and we have had a series of vacancies in various areas of the Planning & Land Use that have remained unfilled, what percentage of those funds in this budget cycle will go back into the Planning & Land Use Department. Mr. Romero said staff is trying to fill every one of the vacant positions in Planning & Land Use, and one of the critical area is Long Range Planning. A Historical Planner has been hired, and offers were made to two others, one of which refused. Mr. Liming will go to the second person on the list, and is doing everything he can to fill these vacancies.

Councilor Bushee said when the building permits were increased there was a long process about tying that to performance. She believes we have achieved some of those performance levels in the development review process. She doesn't want this to be on the "back" of the Planning & Land Use Department. Mr. Romero said it absolutely will not be.

It was moved by Councilor Bushee, seconded by Councilor Chavez, that Ordinance No. 2003-20, as amended, be approved.

Discussion: Councilor Ortiz said the fiscal impact report shows that \$900,000 in revenue is anticipated in this FY and \$1.6 in the following year. He asked if there is a revised report for \$1.2 million. Mr. Salazar said the \$900,000 was a rough estimate based on last year's revenue.

Councilor Ortiz said we are assuming the same number of permits this year as last year, and with the rate increases will produce a little under \$1 million. Mr. Salazar said it was assumed the rate of building permits would remain steady.

Councilor Ortiz said some in some cases the increase is relatively minimal, and in other cases more than 100% increase in some fees. The increase won't be on the backs of the Planning & Land Use Department, but on people pulling permits. He asked if consideration was given to phasing-in or scheduling-in the rate increases to build up the fees over a period of time.

Mr. Romero said that was not considered, and this recommendation was made during the budget process. He said the anticipated fees are based on historical data over the past 2-3 years. He said the increase is not at \$1.2 million because the increases for secondary permits were not published to come forward at this time. That should come forward in July or August as part of the budget process. He said Albuquerque's fees for electrical permits are 276% higher than Santa Fe's, and 74% higher for plumbing permits. He said he missed the timing on those because he didn't realize it was something that had to be published.

Councilor Ortiz said the comparison numbers for Albuquerque and Las Cruces were helpful. However, the cost of building a house is less in Albuquerque and Las Cruces than in Santa Fe. He asked how much more someone will be paying for someone to pull a permit if these fees are adopted. Mr. Salazar said staff ran comparisons based on homes valued at \$250,000, \$160,000 and \$275,000. He said for a \$250,000 home, the building permit fees, including plan review fees would be \$2,402, compared to Albuquerque's \$2,033.

Councilor Ortiz said that is compared to now, and asked if we didn't pass the ordinance what would be the fees. Mr. Salazar said for a 2,000 sq. ft. home, current permit and plan review fees would be \$675 which will increase to approximately \$1,015. Councilor Ortiz said then that is a 100% increase. Mr. Salazar said this is an increase of about 60-70%.

Councilor Ortiz asked about commercial comparisons. Mr. Salazar said current fees for a general office building with an evaluation of about \$3.5 million would be \$19,220 and will increase to \$26,500. Mr. Salazar said that is a 25-30% increase.

Councilor Ortiz asked if staff tried to readjust the figures to move the increase in fees relative from one particular use to another kind of use. Mr. Salazar said there was no attempt to do this, it was an across the board fee based on evaluation.

Councilor Bushee said the last time the fees were increased, in 1994, the Construction Industry Advisory Board was formed. She asked if that Board is functioning and if it reviewed this proposal. Mr. Salazar said it is not functioning, and staff has discussed resurrecting that Board with the City Manager, and there have inquiries by contractors who are interested in attending those meetings. Staff is in the process of resurrecting

that Board. Councilor Bushee asked Mr. Salazar to report back to the Public Works Committee when this committee is reformed.

Councilor Wurzbarger asked what response, if any, there has been from the building community on these increases, commenting there is no one in attendance from that group. Mr. Andrew Sandoval said the discussions that he has had with people in the building community are typical – they don't want prices to go up. However, they realize there have been no increases since 1994, and the City is doing this incrementally so their projects won't necessarily be hit with the largest increase possible. He hasn't spoken with anyone who is totally against the increase.

The motion carried on the following roll call vote:

For: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, and Councilor Wurzbarger. [Absent for this action: Councilor Pfeffer.]

Against: Councilor Ortiz

**10) CONSIDERATION OF BILL NO. 2003-21:
ADOPTION OF ORDINANCE NO. 2003-21. (Finance
Committee)
An Ordinance Amending Section 21-7.1 and Exhibit B of
Chapter 21 Relating to Refuse Collection and Disposal Rate
and Fee Schedule.**

Mr. Mike Lujan said the ordinance amends Chapter 21, and increases both the residential and commercial refuse collection rates by 18.35%. The Division has not had an adjustment in rates since 1996. An analysis done by the Finance Department shows the CPI has increased just under 18%. This increase will enable the Division to provide sufficient revenues to continue to provide service and replace equipment.

Public Hearing

There was no one speaking for or against the Ordinance.

The Public Hearing was closed

Councilor Ortiz understands that we haven't increased fees. He said the reason we don't have any money in solid waste is that we built a landfill which we can't use for the City, and overspent our capital outlay and bonded to pay for that landfill, and we don't have any money for equipment. "And to say now that we've got to raise these

rates just because we haven't done it for some time, speaks to the failures of previous councils. It does not make any sense to the people who are going to have to be paying this increase." He said the fact is that we need improvements to services, and the additional money we're going to bring in is to preserve the status quo and not to improve services. He said it doesn't make sense to get additional revenue from citizens to cover operating expenses that we have been running. We have yet to make hard decisions about what we have or have not done with the transfer station, what to do with recycling which gets a contribution of \$400,000 to \$450,000 from the General Fund. He said to increase fees just to preserve the status quo isn't good enough, and he will oppose these increases. The City isn't under a mandate in solid waste except that we have to cover up for mistakes in the past.

Councilor Chavez asked Councilor Ortiz what he proposes that we do – sweep it under the rug? Councilor Ortiz said that's what we're doing by approving this ordinance, we are sweeping under the rug years of inaction in not dealing with the revenue streams. We should oppose these fees and say we're not going to do this and we should be accountable for the costs associated with our operation. What are we going to do with the landfill – \$8 million down the drain. What about recycling which isn't being picked up on a timely basis, and yet we are subsidizing it at \$400,00 per year. He thinks at some one of these levels we have to say no.

Councilor Heldmeyer asked if we pass this ordinance, if recycling will be subsidized from the general fund or will recycling be totally funded from the Solid Waste Fund. Mr. Lujan said the plan before the Council presumes that the Division will pay the \$395,000 subsidy from the general fund for recycling. Mr. Lujan said there are two fiscal years to retire the debt assumed in 1998-1999 for equipment. Bond covenants call for the adjustment of revenues to satisfy the bond requirements.

Councilor Heldmeyer said recycling is very important to the people in her District, and a discussion was held at committees about whether we want to continue recycling, discontinue, or charge people for, and this is the way we chose to do that. We aren't sweeping that one under the rug.

Councilor Heldmeyer said no one has ever been able to explain to her why the transfer station was built. She hopes the City can do something about it, admitting this is something "we are stuck with from previous councils." The other thing is that a decision was made not to raise the fees to amortize the costs over time. She said this is a "white elephant." She knows Mr. Lujan and Mr. Romero have discussed ways to deal with it, but those are further in the future and we can't assume those changes will happen. Councilor Heldmeyer said the City hasn't had a good record in the past several weeks in picking up solid wastes and/or recycling. She asked if this infusion of money will help in that regard.

Richard Mares, Acting Division Director, said during the past 4-5 weeks there has been significant staff turnover – two transfers out, one resignation and one on light duty for on-the-job injury – which left with no staff assigned to the recycling program. Staff was pulled from the manual refuse collection crew to assist in the recycling program. New staff has been hired to fill the vacancies and the injured employee is back on regular duty. Seasonal workers have been hired to assist. Recyclables have increased over the past year. He believes they can now provide service on time.

Councilor Heldmeyer said if the ordinance is passed she would like quarterly reports to the Public Works Committee about whether the goals of efficient and timely pickup are being met. She said we need to hire a Director to focus on the job and the undivided responsibility for what is happening.

Mayor Delgado complimented Mr. Mares on the job he has been doing. Mayor Delgado said he gets reports from the people about the poor pickup. He knows there have been chronic equipment break-downs.

Mr. Mares said there have been break-downs with the automated trucks. This is very highly technical equipment which is computer-driven, and there have been a variety of problems associated with that. A new automated truck is being purchased to serve as a backup. He believes the problems with existing equipment have been resolved and should be back on track. If there are further breakdowns, he has directed staff from the manual refuse collection to assist in picking up the automated routes once they have completed their routes.

It was moved by Councilor Chavez, seconded by Councilor Heldmeyer, that Ordinance No. 2003-21 be approved.

Discussion: Responding to Councilor Bushee, Mr. Lujan said he is actively working to hire a new Director as well as an Operations Director.

Councilor Bushee said there weren't any increases for years because the Council felt this was being mismanaged. We have known for several years that solid waste has been operating in the red and we needed a rate increase. She doesn't believe all of the problems have been resolved, and relays any complaints to the City Manager. She said the budget was approved in reliance on these increases. She recalled that the City was advised that the transfer station had to be built. However, we must deal with the situation as it exists. We know that recycling costs.

Mr. Romero said with some of the adjustments made two years ago in solid waste the City has been able to operate barely, minimally in the black. Solid waste is in the black right now. However, there are tremendous equipment needs. The equipment maintenance costs to date are about \$350,000 which is a 25% increase over last year.

Mr. Lujan said the transfer station has been discussed, and he is working closely with the County and the Regional Landfill to develop a plan or analysis of the future of the station. He will be coming back to the Governing Body with definitive answers on the transfer station.

The motion carried on the following roll call vote:

For: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, and Councilor Wurzburger [Absent for this action: Councilor Pfeffer]

Against: Councilor Ortiz.

- 10) CONSIDERATION OF BILL NO. 2003-22:
ADOPTION OF ORDINANCE NO. 2003-22. (Finance Committee)
An Ordinance Creating a New Section 13-1 SFCC 1987
Establishing a Stormwater Utility Service Charge for all Utility Customers of the City of Santa Fe. (Lawrence Ortiz and Mike Lujan)**

Mr. Lujan said this Ordinance would enable the City to comply with the mandated NPDES Stormwater Regulations by EPA. The Finance Committee set a monthly rate of 75¢ per month per users which would produce about \$344,000. Councilor Chavez has proposed an amendment to increase that rate to \$1.00 per month per user. That amendment is included in the Council packet.

Councilor Chavez said this is a federal mandate for all cities in the nation. He hopes as we comply, we can look at this as a resource which we desperately need. This is a cost that has to be passed on to the residents because there is no way this can be subsidized from the general fund.

Public Hearing

There was no one speaking for or against the Ordinance.

The Public Hearing was closed

It was moved by Councilor Chavez, seconded by Councilor Wurzburger,

that Ordinance No. 2003-22 be adopted as amended on Exhibit A for a fee of \$1.00 for each residential user, and the commercial fee to be determined by the meter size.

Discussion: Councilor Ortiz spoke in favor of the Ordinance and appreciates the compromises which have been made by the sponsors. This is under a federal mandate, and it is refreshing to hear that we will be treating stormwater runoff as a resource.

Councilor Heldmeyer said as we work with this, she hopes staff considers an alternative in basing commercial fees on the amount of impervious surface, and fitting the fee with the impact caused by any individual business.

The motion carried on the following roll call vote:

For: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz, and Councilor Wurzbarger [Absent for this Action: Councilor Pfeffer]

Against: None.

- 10) **CONSIDERATION OF BILL NO. 2003-23:
ADOPTION OF ORDINANCE NO. 2003-23. (Finance Committee)
An Ordinance Amending Section 23-7.4 SFCC 1987 Relating to the Green Fees, City Sports Fields User Fees and Other Rates. (Ron Shirley)**

_____ Mr. Shirley said this Ordinance proposes to increase weekend rates in line with the other 17 golf courses surveyed, and will generate an additional \$28,000 for the golf course.

Public Hearing

There was no one speaking for or against the ordinance.

The Public Hearing was closed

It was moved by Councilor Bushee, seconded by Councilor Chavez, that Ordinance No. 2003-23 be approved.

The motion carried on the following roll call vote:

For: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor

Heldmeyer, Councilor Lopez, and Councilor Wurzburger [Absent for this action: Councilor Pfeffer]

Against: Councilor Ortiz

10)

**CONSIDERATION OF BILL NO. 2003-24:
ADOPTION OF ORDINANCE NO. 2003-24. (Finance
Committee)**

**An Ordinance Amending Sections 12-6-6.1, 12-6-6.2, 12-6-6.3, 12-6-6.4, 12-6-6.5, 12-6-6.6, 12-6-6.7, 12-6-6.8, 12-6-6.9, 12-6-6.10, 12-6-6.11, 12-6-6.12, 12-6-6.14, 12-6-6.15, 12-6-8.4, 12-6-9.4, 12-9-3, 12-9-4, 12-9-5, 12-9-8 and 12-12-18 of the New Mexico Uniform Traffic Ordinance Relating to Parking Fines.
(Vincent Lopez)**

Mr. Lopez said this is the final component of the overall rate structure which was approved in the budget process. The current fines and penalties are well below those of other surrounding cities, and should be at a rate higher than the costs of parking. This will increase safety and encourage use of off-street parking.

Public Hearing

There was no one speaking for or against the Ordinance.

The Public Hearing was closed

It was moved by Councilor Chavez, seconded by Councilor Coss, that Ordinance No. 2003-24, be approved.

Discussion: Councilor Ortiz encourages the use of off street parking, but we have a lack of off street parking especially downtown. He asked if there is a particular use for the increased fees, or if they will be used to increase the Parking Enterprise Fund. Mr. Lopez said they aren't building up revenues, and this year there will be a small loss.

Councilor Ortiz asked how the additional funds will be used. Mr. Lujan said the rate adjustment stabilizes the Parking Enterprise Fund. There are two projects, primarily the Railyard project. These funds will also permit the Fund to bond one of the projects.

Councilor Ortiz said the City is required to do that parking project by July 2004 under the Railyard master plan, or if not, then the Railyard Corporation will not be required to pay and the City will continue to subsidize out of the general fund. There are no anticipated revenues for this fiscal year. Mr. Lujan said if approved, there will be a revenue increase in FY 2003-2004.

Councilor Ortiz asked if there will be enough funds to bond both projects. Mr. Lujan said the increased funds will permit the Enterprise Fund to bond for just under \$10 million. The Council will decide which project to bond. The Fund won't bond both projects.

Councilor Ortiz said there isn't time for the City to build the parking structure to comply with the agreement by 2003-2004. Mr. Lujan said this is correct. There have been ongoing discussions with the Railyard Corporation. There are issues on both sides which delay moving forward and complying with the July 2004 deadlines. It makes no sense to move forward with this development until it is known who will be the developer above the garage. There are issues regarding design and development of the on-site infrastructure as well that need to be known before designing and building a parking garage. The Railyard Community Corp. has acknowledge this, and understands the City might possibly propose an amendment to the management agreement which would create a realistic timeline for the opening of that facility.

Councilor Ortiz said the proposed expansion at Sweeney contemplates some Parking Enterprise funds. Mr. Lujan said the cost of the 600 space, below-grade facility is about \$12 million, and there would be an infusion of about \$500,000 from the Enterprise Fund in cash equity in the system. The current plan shows that the majority of the Sweeney facility, including parking, will be paid by the Lodger's Tax. The revenue from the parking garage would fund the operating and maintenance of the garage.

Councilor Ortiz said there is a proposal for a fee-in-lieu-of ordinance, and asked if that was calculated as a potential revenue stream to pay for one or both of the facilities. Mr. Lujan said that ordinance dealt more with zoning as opposed to a constant, reliable revenue stream. That ordinance would allow options for satisfying parking requirements under Chapter 14 of the City Code. Any revenues would go into a Parking Trust Fund which could be used for parking development or for intermodal facilities.

Councilor Ortiz said parking fees/fines are considered fees. There is an issue of juvenile compliance with some of our misdemeanors because they have criminal sanctions. Is there a possibility that things such as seat belts, cell phones or such minor traffic violations could be considered fee assessments and being able to hold juveniles and their parents responsible for such fees. He asked the City Attorney to look at that issue.

The motion carried on the following roll call vote:

For: Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz, and Councilor Wurzbarger [Absent for this action: Councilor Pfeffer]

Against: None.

Explaining his yes vote, Councilor Ortiz said the City committed itself in the Railyard to build a parking facility and this is the only way we can afford to build that facility.

10. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

10. MATTERS FROM THE CITY ATTORNEY

There were no matters from the City Attorney

10. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

10. COMMUNICATIONS FROM THE GOVERNING BODY

Mayor Delgado

Mayor Delgado distributed a draft Resolution, supporting, through the State Legislature, a memorial requesting that the State Highway Department Offices in Santa Fe be named after Joe M. Anaya. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "7." He will present the Resolution for a vote at the next meeting, and asked Councilors wanting to sign the Resolution to notify Ms. Vigil.

Mayor Delgado said a presentation was made by one of the contractors with regard to the financing on the San Juan Chama project. He would like Mr. Romero to contact the Councilors to try to get together and hear this presentation which was a very good one. Councilor Coss would like this presentation made to the RPA as well. Mayor Delgado asked Mr. Romero to contact the RPA members as well.

Councilor Ortiz

Councilor Ortiz said he has been advised that there are issues between the youth soccer organization and staff at the MRC. He said there has been a possibility that in negotiations, the youth soccer is being bumped for adult soccer. He asked Mr. Romero to follow up with Larry Lujan to ensure those negotiations are proceeding.

Councilor Ortiz would like a report from the City Manager on getting the agreement with the School district. He was informed by Board Member Dominguez that the companion resolution for a JPA with the School District has happened, and he wants an update and progress in getting the JPA before the Council.

Councilor Coss

Councilor Coss said he would like to be co-sponsor on the Mayor's Resolution to name the Highway Department buildings for Joe Anaya.

Councilor Coss said he will be introducing a resolution at the next meeting which proposes that the City be an active partner on the Living River.

Councilor Coss introduced a Resolution which would direct the City to celebrate and remember the community activism of Charlie "the Greek" Griego. A copy of the proposed Resolution is incorporated herewith to these minutes as Exhibit "8."

Councilor Heldmeyer

Councilor Heldmeyer said we need to look at the heating and air condition system at the Business Incubator in the first part of the building which has never worked correctly. There are some businesses which need close temperature control that have to be located in part 2 and that puts limitations on the Incubator.

Councilor Heldmeyer said there were several meetings this week with regard to the helicopters at the hospital and the noise issue. These were productive meetings. Councilor Wurzbarger attended some of those meetings. Several directions to staff came out of those meetings. The helicopter service is very interested in relocating to the airport which will reduce the number of flights around the hospital and reduce the number of flights at the airport. The compromise solution was for the City try to get the service to the airport on an interim basis and into a temporary building for a couple of months. This would let the City move more quickly than through the process of a long term lease and construction, and allow a two month trial period to see if the assertions about the decrease in the number of flights is the case. She would like that to come before the Council at the next meeting to see what we can do to expedite this process.

Councilor Heldmeyer said the hospital and helicopter are supposed to provide information on other issues to our staff by next week, and asked staff to keep up with that. The hospital has indicated it will put some soundproofing around the helicopter pad and need help in fast-tracking that with regard to permits and such. Although this is a life saving service, everyone acknowledges that this can be a strong impact on the neighborhood and want to mitigate those impacts as much as possible.

Councilor Chavez

Councilor Chavez received a letter from a resident in District #3 with regard to the helicopter flights. The residents in District #3 are asking for the same opportunity to have a special meeting to voice their opinions and concerns regarding the issue of

moving the service to the Airport. He would like to formally request the City Manager to make these arrangements, that City staff conduct this meeting. This will provide an opportunity for those citizens to have an equal opportunity to voice their concerns. He suggested the meeting could be held at the airport or the Business Incubator.

Councilor Chavez asked Councilor Heldmeyer to delay presenting her proposal at the next Council meeting. Councilor Heldmeyer would like that meeting to be held in the next two weeks and have that information as input as this proposal goes through. Mr. Romero believes the meeting for the District #3 residents can be held within the next two weeks and he will work on that right away.

Councilor Chavez said there is some reluctance by the service to disclose the flight paths. He said there might be impact in District #4 as well. He said we should focus on the whole City and not just on one District. He suggested inviting District #4 residents as well as District #1 residents.

Mayor Delgado believes this issue should be heard by all the Districts.

Councilor Chavez thanked Councilors Heldmeyer, Bushee and Coss, and City staff who attended a District meeting last night at Cesar Chavez School in Tierra Contenta. He thanked all of the residents who attended the meeting, and said the meeting was beneficial to both residents and staff. This provides a positive forum and interaction between the residents and staff. He would like to continue this. He thanked Juan Rios for his help on the releases. Representative Trujillo and the new Tourism Director Fred Peralta attended the meeting.

Councilor Chavez said the public nuisance ordinance was distributed 3 meetings ago, and asked if that is ready to go through the Committee process. Mr. Thompson said someone in his office is working on this, but it is not yet finished. Mr. Thompson said once approved it can go through the Committee process.

Councilor Bushee

Councilor Bushee thanked the RPA and the County Commission members of the RPA for their work in reaching an agreement in how to spend the joint ¼% tax.

Councilor Bushee said she received a complaint from someone in Casa Solana who lives on Pine Street informing her there is another Pine Street on the other side of town which is a problem in deliveries.

Councilor Bushee said she is submitting a pink slip with regard to imposing fines for violations of trash and littering ordinances. She said the City is getting dirtier and won't improve without serious enforcement of violations. This includes the Plaza. She hopes that we have an active Task Force and some funds to look at how to improve the

Plaza and in front of City Hall. Mr. Romero said there is an internal staff task force which is working on a short term cleanup for the Plaza. There is also a long term plan, which staff wants to take to the H-Board and through the committee process. He said it is suggested to do the downtown landscaping after Fiestas when the Gazebo is installed. He said staff has looked at the City halls in Los Alamos and Rio Rancho to develop some suggestions for our City Hall.

Councilor Bushee said if the recommendations are for a conversion to a xeric garden, it would be a good idea to have a contest of the professionals in the City to do this design. She knows the City has to go through SHPO, but asked if the downtown portion could be done before Fiestas. Mr. Romero said the City is trying to do some things now during the tourist season or events this summer all the way through the gazebo. He will be bringing a comprehensive landscaping plan to go through the committee process in time to do the landscaping as the gazebo is build in September. Councilor Bushee has a picture of another Plaza she will give to Mr. Romero.

Mr. Romero said the landscaping plan that was developed by Fabian Chavez and Randy Thompson was shared with SHPO, and includes some of the concepts described by Councilor Bushee. This also looks at planting beans and corn as done in 1846.

Mayor Delgado asked if the food vendor's licenses require them to clean up their area. Mr. Romero will check on this and see what can be done. Mayor Delgado said if there isn't, the City needs to include language which makes them responsible for cleaning up their area.

Councilor Lopez

Councilor Lopez introduced two Resolutions. The first supports the multi-agency and multi-jurisdictional Santa Fe Area Wildlife Operations Plan, and the second authorizes and approves the submission of a completed application for financial assistance and project approval to the New Mexico Finance Authority for firefighting equipment.

Councilor Lopez said Santa Fe Beautiful gave brooms and dustpans to the downtown businesses in an effort to improve the appearance of businesses in the downtown area. She suggested that the Plaza Traffic Committee did such a good job, it might be wise to keep that committee active through the gazebo and all of the upcoming changes.

ADJOURNMENT

There being no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 11:35 p.m.

Approved by:

Mayor Larry A. Delgado

ATTESTED TO:

Yolanda Y. Vigil, CMC, City Clerk

Respectfully submitted:

Melessia Helberg, Stenographer